

L500 California. Legislature. Assembly.
J82 Interim Committee on Judiciary-Civil.
1960 Hearing on prepaid service contracts
no.4 on [sic] health and dance studios,
transcript of proceedings, Stockton,
Calif., May 19 and 20, 1960.

TRANSCRIPT OF PROCEEDINGS * * * * *

HEARING ON PREPAID SERVICE CONTRACTS
ON HEALTH AND DANCE STUDIOS,

May 19 and 20, 1960,
Stockton, California.



California Legislature

ASSEMBLY INTERIM COMMITTEE ON JUDICIARY-CIVIL

William Biddick, Jr., Chairman

George A. Willson, Vice Chairman

Clark L. Bradley

John A. Busterud

Tom Carrell

Richard T. Hanna

Thomas J. MacBride

Milton Marks

Bruce Sumner

Howard J. Thelin

Jerome R. Waldie

Edwin L. Z'berg

ASSEMBLY INTERIM COMMITTEE
ON
JUDICIARY-CIVIL

William Biddick, Jr., Chairman

Subcommittee Hearing on Prepaid Service Contracts on Health and
Dance Studios, City Council Chambers, Stockton, California
May 19 and 20, 1960

MEMBERS PRESENT:

William Biddick, Jr., Chairman
George Willson, Vice Chairman
Tom Carrell
Thomas J. MacBride
Bruce Sumner
Howard J. Thelin
Edwin L. Z'berg

STAFF MEMBERS:

Jan Stevens, Committee Counsel
Helen Myers, Committee Secretary
John Ingro, Staff Assistant
Fred Lewe, Administrative Analyst
Tom Tanner, Administrative Analyst
Joseph E. Coombs, Jr., Deputy Legislative Counsel

REPORTED BY:

Testimony reported verbatim by
Raymond N. Maes, United States Court Reporter

W I T N E S S I N D E X

<u>Name</u>	<u>Page</u>
HOWARD JEWEL, Assistant Attorney General, Sacramento, California.	7
VERNON A. LIBBY, General Manager, Better Business Bureau, San Francisco.	23
JOHN SOBIESKI, Commissioner of Cor- porations, Sacramento, California.	34
RAYMOND J. LLOYD, Office of Federal Trade Commission.	39
JOHN M. DEAN, Assistant District Attorney, San Francisco, California	50
WILLIS B. GUSTAVESON, Assistant Dis- trict Attorney, Riverside County.	67
ROBERT BETZENDERFER, Deputy District Attorney, Contra Costa County.	80
LEE GALLAMORE, Detective Sgt., Sheriffs Office, Martinez, California.	82
MELVINA MEEKS, Contra Costa County	87
PHYLLIS R. CIARK, Secretary-Manager, Better Business Bureau, Stockton.	98
LEONARD DIEDEN, Attorney at Law, Financial Center Bldg., Oakland.	103
ROBERT C. BURNSTEIN, Attorney at Law, 414-13th Street, Oakland, California.	108
ALVIN NORRIS, Assistant District Attorney, Stockton, California.	141

W I T N E S S I N D E X (Cont'd)

<u>Name</u>	<u>Page</u>
GEORGE G. SPANOS, Attorney at Law, Stockton, California	147
THOMAS L. TANNER, JR., Legislative Analysts Office, Sacramento, Calif.	152
ROGER GARETY, Assistant District Attorney, San Rafael, California.	163
ROBERT E. CAREY, Deputy District Attorney, San Mateo County.	169
CLARENCE KNIGHT, Deputy District Attorney, San Mateo County.	172
GEORGE R. BRUCE, Executive Director, American Gym Association	181
JUDY GANULIN, Office of Consumer Counsel, Sacramento, California.	198
GORDON KEITH, President, Dance Masters of America, San Francisco, California.	202
CHARLES BAKER, Past President, Dance Masters of California, Southern Branch.	212
AGATHON A. AERNI, Legislative Workshop Seminar, Stanford University.	217
STEVE BIRDLEBOUGH, Legislative Workshop Seminar, Stanford University.	226
CARL WIEDEM, Legislative Workshop Seminar, Stanford University.	228
MR. & MRS. FEATHER, Eileen Feather Salons, Inc., Berkeley, California.	229

THURSDAY, MAY 19, 1960 -- 10:00 A. M.

CHAIRMAN BIDDICK: The meeting will come to order. The Secretary will call the roll of the Judiciary-Civil Interim Committee.

THE SECRETARY: Tom Carrell, present; Howard J. Thelin, present; Bruce Sumner, present and William Biddick.

CHAIRMAN BIDDICK: This is a seven man sub-committee, and four of the members being present, we have a quorum. We also expect Assemblyman Willson from Los Angeles, Assemblyman Z'berg from Sacramento and Assemblyman MacBride from Sacramento before the morning is over.

Now, the subject of today's hearing is something that has been before our Committee for some time. During the last session in 1959, Assemblyman Backstrand of Riverside County introduced a Bill which would regulate the types of contract involved in dance studio operations. It was a very long and a complicated Bill, it was referred by our Committee to the Rules Committee for assignment and then back to the Judiciary-Civil Committee by the Rules Committee. Subsequently we had letters also from Mr. Howard Jewel, Assistant Attorney General and from Stanley Mosk, Attorney General, relating the fact that there had been numerous objections to some of the operations in the health and dance studio field and suggesting the possibility of some corrective Legislation.

We also had a similar request from Helen Nelson, Consumer Counsel for the State of California, so back during our Special Session this year we resolved to set this matter for a hearing and to go into this matter in some detail, both from a standpoint of trying to analyze the extent of these practices that we had been advised of and also from the standpoint of trying to see what if any Legislation would be indicated.

To do this I felt we needed to have some sort of survey State-wide to give us an idea of just what exactly we were talking about and for that reason the Committee entered into a contract with the Legislative Analyst's Office and Mr. Fred Lew who is sitting second from the end over here is a Supervising Analyst who is in charge of making this investigation and directly next to him, who was also on this case, Mr. Tom Tanner, seated right at

the end of the table, this end of the table; and Mr. Tanner has been engaged in this for several weeks now, making trips into the various District Attorneys' offices and Better Business offices where there have been complaints and following up various leads, so on the basis of that he has assisted us in preparing our list of witnesses and also preparing a preliminary report.

We have also at the same time been studying the matter of Legislation. We have with us Mr. Joseph Coomes who is sitting third from this end who is with the Legislative Counsel's Office, our own firm of attorneys for the Legislature, and he has been working on various proposals. At the same time the Stanford University Law School, the Legislative Law Class has been making a survey in this field and we expect to hear from them before the hearings terminate tomorrow.

I should introduce the Assemblymen, of course, as long as I have gone this far. Starting at my right, Assemblyman Bruce Sumner from Orange County who has been on the Judiciary since I first went on in 1957 and Assemblyman Tom Carrell from San Fernando is next to me. We are very proud of Tom, he is our non-lawyer member. He replaced Allen Miller when Allen Miller became Superior Judge in Tom's own district.

And then on the far left, we'll just make it simple, is Jan Stevens who was our Legislative Intern last year and is Committee Counsel this year. Moving back this way is Assemblyman Howard Thelin from Northern Los Angeles County, the Glendale area. And Howard also has been on the Judiciary Committee along with Bruce and myself since 1957.

On my immediate left is Mrs. Bette Coffey who has served as our Committee Secretary on some of our hearings and who is also the Speaker's Secretary in Sacramento; and John, I guess I didn't mention you. John Ingro is at the far end of the table. He is our Legislative Intern this year, the Ford Foundation Intern who is leaving us within a week or so to go into the District Attorney's Office in Southern California.

I think now you have the various people identified for you and we will be joined by other Assemblymen later on.

We have had a preliminary report which has been handed to the members so they will have some background on what we are trying to get into, and I am not going to read this report in detail. There are several people who have asked for it in advance representing those who would be affected by regulations and to whom we have handed copies of this.

It's not a secret matter; however, we are happy, as long as they last, to provide copies of these. It goes into a little bit of the background and does go into some detail on certain legislative suggestions. I might say in this connection that we do hope to hear from members of the industry affected. Some of them have indicated to us that they don't think that Legislation is necessary, that they themselves could take care of cleaning up their own problems by industry action.

That, of course, is something that we would like to hear about, if they have some plan, I think the Committee should know about that. But as is pointed out in this background memorandum, the main purpose will be to determine the nature of abuses that have occurred in the sale of prepaid service contracts in the health and dance studio industry and to determine the extent and seriousness of these harmful practices.

In other words, we have a two-fold hearing. We are trying to see how serious this matter is and we think that undoubtedly there is something to this because we have heard from so many different sources and then we think that after doing that we would like to hear about the various suggestions for Legislation.

We may do that early so that some of you people representing the industry will at least have an idea of the types of Legislation that we would be considering.

Now, we have a tentative list of witnesses that I think most of you probably have. We won't be able to follow it exactly because some of these things are always flexible and some of these people have to get out a little sooner, and witnesses show up that we didn't expect.

I might say that anybody who is here, any citizen who wishes to testify, if you would advise us we will recess at noon and so on, if you will let us have your name and let us know what

it is you would like to tell us about, we will try insofar as possible to hear everybody that wishes to say something. We may have to limit witnesses as far as time is concerned, but that doesn't limit the possibility of your submitting a written statement. If you'd like to stand on this, the Committee would be very happy to have it for its records.

Now, Mr. Howard Jewel, of the Attorney General's Office, he is in charge or supervising the Consumer Fraud section of the Attorney General's Office. He is quite familiar with this problem state-wide. He has been in touch with many District Attorneys throughout the State and he has been in touch with our Committee when we were preparing for this hearing.

I think it would be most appropriate if we would call on Mr. Jewel for our first witness this morning. You may proceed, Mr. Jewel.

MR. JEWEL: Do you want me to just make a statement, Mr. Chairman?

CHAIRMAN BIDDICK: Yes, I'd like you to make a brief statement of this problem sofar as you are aware of it. In other words, the nature and extent of the problem and any other comments that you would care to make, but we would like to have your own reaction for the necessity of this Legislation.

MR. JEWEL: I'd be happy to do so and I will tell the members of the Committee that they may feel very free to interrupt me at any time they want to ask any questions that might occur to them.

The Consumer Fraud Bureau of the Attorney General's Office was commenced with Attorney General Mosk in January of last year and since the inception of this division of the Attorney General's Office we have been in receipt of a continuous series of complaints from both law enforcement officers and members of the public who were concerned with the operation of health and dance studios.

I have not brought with me a list of complainants, I have a list of names but I have read the proposed agenda of your Committee and I have noted in there that you are calling as witnesses people who are much more familiar with the local prosecuting and local complaints than I am.

I can tell you, however, that I have been contacted by no less than a dozen District Attorneys who had initiated correspondence with me concerning this problem and have indicated to me the difficulties that they were having with this problem in their respective counties.

As I make it out, the problem is two-fold. First with respect to health studios and this applies only to health studios and not to dance studios.

We have the problem of the nomadic studio. This is a dance, or a health studio operation which moves into town and as soon as they get the door open they immediately make use of all forms of advertising media in order to bring in that percentage of the population and I suppose the percentages may be two, five or

seven who might conceivably be interested in taking these health studio exercises.

They use gimmicks such as playing Springtime in the Rockies on the radio and saying if you can identify this tune call such and such a number and you will be given a 50 dollar discount on some health lessons and so forth. They insert big ads in the newspapers, television -- it's a saturation effort with the local media.

When these people are brought in they are invariably taken in tow by a trained salesman whose job it is to sign them up for the longest term contract that they can be sold and with payments made over as short a period as possible. For a long time the goal of these health studios was the lifetime contract and this presumably meant for the life of the customer. And then as soon as these contracts were sold, as soon as this outfit had been in business for 6 weeks to 6 months and they had saturated the area with the advertising so that the new purchasers of lifetime contracts were reduced to a trickle, and what they were involved in then was a maintenance business of providing the service, pretty soon we found them shutting their doors and moving on to another town.

You see they had their money and quite frequently they would take these contracts and discount them to a financial company which they own or to an independent financial company, discount for 60 or 70 percent, whatever could be had from them, and having gotten that money from the finance company they were home free.

And then you see, if they were to continue to stay in business and provide these services for lifetime customers, they would simply be in a situation where they would be paying the money out with very little coming in so that to obviate that necessity they would simply close the doors and move to a new town.

Now, in some instances before they left town they would make a deal with another studio, or in some instances we think the other studios just of their own volition would contact the members of the former studio and agree to take those members in the new studio upon payment of what was referred to as a trans-

fer fee. This was a sum of money that would enable you to enjoy the same privileges at this studio that you could have had at the old studio, but it was a sum of money which was made in addition to this lifetime contract for which you had already been signed up.

This was the primary problem -- those studios which caused us the most agony were the American Health Studios, Silhouette and one other. It was intricately involved legally with respect to the ownership.

I see you have Mr. John Dean, Assistant District Attorney of San Francisco County, who is here before you and he is an expert on this situation and can fill you in completely with respect to those 3 studios.

The problem with respect to law enforcement is that of proving fraud. And here you gentlemen are lawyers and Mr. Carrell has been sitting I suppose long enough with the Judiciary Committee to enable him to begin to think like a lawyer. You have the problem of establishing a fraud. This is a difficult thing to do. You have to show that when these people opened the doors, and when they were selling these contracts, they did so with the idea in mind that they were not going to honor the contracts, and this is an exceedingly difficult thing for a District Attorney to prove. In some areas these companies actually went through a form of bankruptcy.

For example people, those companies that are just named actually did go through a form of bankruptcy, but before they went into that bankruptcy they had withdrawn, as individuals, huge sums of monies for their own accounts and it's small wonder considering the amount of withdrawals that were made by these people that the firm did go into bankruptcy. But the problem of proof so far as a criminal case of fraud is concerned was extremely difficult.

And then additionally I think every District Attorney would tell you that there are great difficulties involved with the problem of proving misrepresentation. If you have a written contract to one extent, or with certain language and then you allege that this contract was procured by fraud, that it was induced by fraudulent misrepresentation, you run into a great

deal of difficulty.

Particularly is it true when the defendant on the witness stand is a trained salesman. In fact very, very skillful salesmen who are in this business because of the fact that they are skillful salesmen and the alleged victims are a person, not a very prepossessing sort of person, not as well educated as they might well be. These salesmen who are skillful are just as likely to persuade juries as they are to persuade their original victims in the first place, which makes prosecution difficult.

I concluded as the result of the conversations, which I had with all law enforcement areas that the only solution to this problem was through Legislation.

Now, the nomadic health studio was one problem -- and this now, one problem is common with both health and dance studios, is the, in my opinion, complete rapaciousness with which these sales are made. With the scorn and contempt which customers of these agencies are treated by the members, by the employees and I suppose the owners of these agencies, and the difficulty as I make it out between this type of operation and with any other type of selling is that any other type of selling there is a limit.

If a man is an unscrupulous used car dealer there is at least a limit to which he can go. If he is selling a 1960 Ford he can't get 20,000 dollars for it, that exceeds the limit. But in this type of operation there is absolutely no limit. These things go on forever and the price is 1,000, 5,000, 12,000, whatever the traffic will bear.

We were aware of life contracts which were sold in some studios, in some health studios, which ranged from a low of 12 dollars 50 cents up to I think it was 5 or 6,000 dollars. Perhaps even higher.

I don't have the figures at the tip of my tongue. There just literally is no limit to the prices charged. The limit is what can be extracted from the consumer and this I think puts these types of operations in a different kind of category from almost any other.

And, of course, once the contract is made, they are invariably written as being non-cancellable. But the approach, the tone to these things -- for example, I have never heard people sell life contracts in this business. I have never yet heard of an instance where the price of a life contract varied one whit according to the age of the customer, whether you're 19 or 79 it made no difference. The price was whatever could be extracted from you and you see obviously a legitimate business-man would certainly want to consider over how long a period of time this contract would run before he would decide what he would sell for.

But here, this would be laughable to think the price would vary according to the potential age of the potential customer.

The sales operation itself is a hard sell. The customer is not given a chance. I have had come into my possession, I won't mention the name of the gym, but it's one of the more prominent ones and it's called "Training Procedure" and it's called a training school handbook. This is a handbook which is used to train instructors for this particular gymnasium. If I may just make a few very brief quotes from it, I should like to offer this to the Committee for its use in its deliberations of this problem because what I cannot tell you in the time I have here is the feeling, the atmosphere that this whole book conveys when read through in its entirety.

It's reminiscent of 1984 or "Brave New World." The complete contempt and scorn for the people who are supposed to be the -- for example here, under a page here called "personal interview record", they have codes for various things. They mention a code for membership application. It says "instruct them how to fill it in. This innocent looking application will break any possible fear in handling the pen or signing their name. While they are doing this, use information on the interview sheet to partially fill out the contract and credit statement."

I call to your attention the fact that "this innocent looking application will break any possible fears of handling the pen or signing their name." And then in health studios this appeal of first of all the scorn and ridicule.

Perhaps I feel a vague uneasiness -- if you see yourself in a mirror and compare yourself to a young male movie star and I suppose this same psychology is true of women -- you want to always look flabby, don't you want to improve? They say, "illustrate how they will be envied by others of the same sex and admired and desired by those of the opposite sex." This comes under a section of difficult sales.

Under the difficult sales it says "after having failed on a bigger program you now go to a 3 months free and at this point offer to give them a free 3 months membership for their wife, friend or neighbor if they buy now. No money down. Point out to them that it is possible to make this available to them with no money down, only a few cents per month. Make them feel that you are really extending yourself on this one. Make them feel obligated to you and then if that doesn't work, drop to the next lower plan. Tell them that you are willing to take the difference in cost out of your own advertising budget." And then in capital letters "REALLY OBLIGATE THEM TO YOU." And they state in here "that if this sales procedure is followed, when you have a complete knowledge of the codes and other uses of the personal interview sheet, you should be able to sell at least 85 percent of everyone who walks into the gymnasium. The other 15 percent will be called at a later date."

Under objections. They talk about the possibility of objections to the sales pitch here and they say, and I quote, "the best way to handle objections that do arise is to avoid them and bypass them as if they were not there. In order that you avoid objections, it is advisable that you use positive questions that demand yes answers." And they cite several of them. And then they say "the best way to avoid objections from arising is to make each and every point perfectly clear by clarifying each point with a positive question. Bypass objections with another question pertaining to individual problems." And then I call your particular attention to this next paragraph.

"It is absolutely necessary that you qualify the person when you present the membership." By qualify they mean here to take away any possibility of an objection. And then they say "this will help you to answer any objection that might arise later. If you must answer an objection, be sure that you take control of the conversation immediately after you have answered

it. Thinking it over or going home to talk it over with the wife can be answered by telling the member that the special ends today. We call it the 'impending event'. "You can never get this terrific bargain again." And then something that frightens me even more, they say "your regional will go over other answers for objections when you start working the gym."

What I have been quoting from here, gentlemen, is a written series of instructions to these people who sell these lessons and I shudder when I think of the instructions which are not written. And I could go on at great lengths on price presentation programs here. And then they say here in one section that's called "upsell" and it says "after the person is completely signed,upsell if they have purchased a two plan, point out you can include each additional member of the family for only 60 dollars less than one-quarter of the cost of their membership. Right now is the only time additional members of the family can be included and at this unbelievable cost."

I think this illustrates the point that I made a few minutes ago that there is simply no limit to the price of which these contracts are sold.

I have here, this refers now to dance studios from a prominent school of dancing. Some are called, "enrollment agreements" and then "extension agreements and contracts" which are not particularly clear to me. Here is one. These all refer to one man who brought them into my office the other day and it says here, and I'm using a bad name, or an alias name because this was brought to me by a man off the street who felt that he had been made a sucker of and I would not voluntarily disclose his name. His name is on these contracts which I will leave with you gentlemen and you can use your discretion in this respect.

It says "I, John Jones, of blank street, hereby agree to renew my course of 150 hours to 175 hours and further agree to pay total tuition for said lessons in the amount of 2,057 dollars" and then it states how the payments will be made. And it says that "I understand that no refund will be made under the terms of this contract."

I defer to you lawyers to whether this is a sale of

175 additional hours or simply an extension of this contract from 150 hours to 175 hours.

But this is one man who has been involved in this thing, let's see, June of 1959, May of 1959, August 1959. Some 4 or 5 months of his dealings and he told me these are not all of the contracts, but here are 5 contracts. These do not represent all of his dealings over a short period of time with a very prominent dance studio and again I submit to you that this is evidence of the fact that there really is no price, no charge for these dancing lessons.

The price is how much can you extract from this man. Here they have got him to sign 5 contracts that obligated him for over 2,000 dollars within a period of a short few months.

So much for the problem generally. I have not yet reviewed carefully the various alternative proposals which you gentlemen have listed in this statement that the Chairman referred to a few moments ago, but I am convinced that there is need, particularly in the health studio area to provide by some means, whether through license, permit, or however it is to be provided, to provide that these health studios will provide the services for which they are paid. That they will not be nomadic. That at least they will not be encouraged to be nomadic as they are now.

This can be done I submit simply by refusing to allow them to charge so far in advance. I understand that when either a health or dance studio signs somebody up there is some clerical work involved putting his name on the files and so forth that would be more expensive for those studios for the initial time than those subsequent visits would be, but, and incidentally, if arguments are made that greater time and trouble has to be taken with initial students, I would refer them to this booklet that I quoted from here before that says "never spend more than 10 to 60 seconds with a student because he might get used to your company and begin to demand it." This is instructions to the instructor, but as a general rule, when you are offering these services, if you are offering a dance service you have to have an instructor or instructress there and she is there for the period of time that the student is there, for an hour. This is not the sale of an automobile or a refrigerator or something where the merchandise suddenly loses value once it becomes secondhand and

I don't think that there is any purpose to be served by allowing either health or dance studios to charge way in advance of the services that they are going to offer and I would be hopeful that the Legislature will pass some sort of Legislation which will simply prevent that: which will allow these people to perhaps get a little bit ahead because of the clerical work that is necessary in the beginning, but certainly not a long way ahead.

Not, for example to collect what they call the lifetime contract over a period of 2 years. I think that is not conscionable and then I am certainly in agreement with your statement in your alternative Legislation with respect to negotiable instruments and with respect to the cancellation of these contracts upon death or disability and I think that the contract itself should be required to state these consumer protections in it much the same as the Unruh Act on installment sales. It states its safeguards in there, that these things be found in there.

This is what I call a down hill relationship in a shorthand kind of expression which means that the salesman in this thing is alert, aware, able, quick, knows what he's doing, has complete control of the conversation and the consumer generally is not. And this salesman is not going to bother to inform this consumer of his rights voluntarily, I think. And the only way that we can make sure that the consumer is aware of his rights is to require that the contract states that in there. And again I know that you can't force the consumer to read the contract, and in fact many of them won't, but I don't know what the members of the Legislature could do other than simply require that these safeguards be in the contract in writing so that if anybody does take the trouble to read them, there they will be.

And with that I will complete the statements that I have and I should say this, that as one citizen of this State I will be grateful to this Committee for their efforts in this field. I think that the Legislation is drastically needed and I wish you God speed and success in your efforts.

If there are any questions which I can answer I certainly would do my best to try.

CHAIRMAN BIDDICK: Thank you for your presentation, Mr. Jewel. Are there any questions by Committee Members? Mr. Thelin?

ASSEMBLYMAN THELIN: Mr. Jewel, you state that your office had a constant stream of complaints relative to these contracts. What is your procedure on receiving these complaints? Do you investigate the circumstances then that are involved?

MR. JEWEL: As a general rule we do not investigate them ourselves. There have been some exceptions to this. As a general rule, if the matter comes out of a particular county, we then contact that particular county and tell them that we, that this problem has been brought to our attention and suggest that the matter be investigated there.

ASSEMBLYMAN THELIN: Do you follow-up then in order to find out from the various county or city officials what the situation is relative to these complaints?

MR. JEWEL: We have in this area, Mr. Thelin, because there were so many complaints that we thought this was a state-wide pattern and so we tried to coordinate the information that we had with other law enforcement officers.

ASSEMBLYMAN THELIN: Do you have any idea what percentage of these complaints then prove out as being justified, I mean to say that the consumer or the customer has been unfairly treated?

MR. JEWEL: This depends upon what you mean by the word justified.

ASSEMBLYMAN THELIN: Well, as an attorney in private practice or as a City Prosecutor, somebody makes a complaint, you have to decide whether somebody has a good cause of action, you might say. But your proof then enters into it, but what they tell you, you must make that judgment and I would say that is what I mean when I say this.

MR. JEWEL: Well, if you mean justified in the sense of could we successfully conduct a criminal prosecution, then I think only a small percentage are justified. If you mean justified in the sense that the person could successfully prevail in a civil suit for fraud on the contract, then a higher percentage. Perhaps 50 or 60. If you mean unjustified in the sense that a person who -- well, let me see how do I want to say this.

In almost every instance of complaint on these things it seems to me that these persons were inveigled and cajoled into doing something which was against their own best interest, and which they, upon mature reflection would realize to be against their own best interest and which the seller of this commodity realizes to be against their own best interests.

But this is not a legal justification. I think that these contracts are legal, enforceable, and I realize, and I understand your concern over the answer, but if you mean justified in that sense, then I think that they are all justified, these complaints.

ASSEMBLYMAN THELIN: Well, of course, what we have to do is differentiate between somebody who simply makes a bad contract, as many people do, and those who are induced to do so by fraudulent representation for which there is no practical remedy even though we may have technical remedies at law.

In other words, I think we should be concerned if some of our citizens are being fraudulently induced to enter into these contracts and then not have adequate remedies at law because the studio has disappeared, nobody to file a complaint against, or against whom we may satisfy a judgement. In which case we may have some bonding provision to take care of that, but your answer leaves me some doubt as to this. Maybe about 50 percent of them you say legally are fraudulent and 50 percent are not fraudulent?

MR. JEWEL: Well, no. I meant 50 percent might recover in a civil suit filed, but you have this problem of proving oral misrepresentation, extremely difficult.

ASSEMBLYMAN THELIN: I know how difficult that is.

MR. JEWEL: Your use of the word fraudulent, let me just refer you again to this suggestion that is made to these instructors that if the customer wants to think it over, or talk it over with the wife, he should be told that this special ends today.

Now, that obviously is not true. Whether that is a material inducement to the contract, I don't know, but I don't have to guess that this is standard procedure, because it is

in the operating manual here.

Now, query whether that contract is induced by fraud or not.

ASSEMBLYMAN THELIN: As a matter of fact, we couldn't say that a special isn't going to end today, sitting here on the outside looking in. This manual that you have here, do you get many such, or is this just one that happened along?

MR. JEWEL: This is one that came to me because I very strongly asked for it several times from this particular company with whatever inducements I could bring to bear to get one.

ASSEMBLYMAN THELIN: Would you say it's common practice from your personal knowledge for these studios to issue that type of written instruction?

MR. JEWEL: I do not know, sir. This is the only one that I have ever seen personally.

ASSEMBLYMAN THELIN: I have no further questions.

CHAIRMAN BIDDICK: Mr. Sumner.

ASSEMBLYMAN SUMNER: I'd be interested in knowing the degree of endorsement you might give some of these different proposals.

Apparently you have read our background list and information contained there and page 5 listed the different alternative proposals for regulatory Legislation and I'd be interested in knowing which of these you feel we should or you in your experience would recognize as being applicable if enacted in the law.

MR. JEWEL: Mr. Sumner, I have to ask the Committee's indulgence. I received this material 2, 3 days ago, and I have been out of the office every day except yesterday and so I have not had a chance to look these over with the care that they deserve.

I read them at breakfast this morning with a cup of

coffee, frankly. And I would not like to commit myself to the advocacy of any one of these things at the moment. I will undertake to study these proposals and submit to the Committee a letter at a subsequent date, if that would be of any value to the Committee.

ASSEMBLYMAN SUMNER: It would be appreciated, especially in those that you don't feel would work out. In other words, we don't want to impose upon persons engaged in legitimate business such severe restrictions that they can't operate a legitimate operation, nor do we want to increase the expense to a business or the State, that's why I had some question about some of these and the red tape involved, and whether or not it should be through the Commissioner of Corporations or whether or not just a simple license, or whether or not some limitation on length of the contract would fill it.

MR. JEWEL: I will say that I am, as one citizen, somewhat chary of licensing requirements. My own personal opinion is that too often a license has come to be -- well, too often these licenses are disbursed by members -- let me put it this way. In fact, let me steal from Khrushchev. Often times the goats are sent to guard the cabbages, in these licensing things. They become a provision which guarantees to a set of operators the right to continue because the licenses are either suspended or maintained by members of the industry themselves and I as one citizen am somewhat dubious about the whole licensing procedure of government, both State and Federal.

ASSEMBLYMAN SUMNER: How do you feel then about the limitation upon the length of the contract for services?

MR. JEWEL: Well, I think that whatever procedure is followed, that certainly should be one result. That certainly should be one result of any Legislation that is contemplated. As I tried to express to the Committee, there just doesn't seem to be any need for selling these long, long term contracts off in the future other than to tie down this consumer at the moment.

ASSEMBLYMAN SUMNER: Had you, in your investigations, ever thought of the possibility of granting as a defense when these contracts are sold; in other words, you would affect what amounts to negotiability of the contract, at least the assignment

of it, by allowing the person involved the defense of failure of consideration?

MR. JEWEL: I have considered it in these nomadic things, that's well and good. Where we run into trouble there is when they are discounted off or assigned off, but in dance studios, there is no failure of consideration. The dance studios have generally stayed where they are. They stay there and they just keep selling you. They'd like to have you come in at 8:00 o'clock in the morning and start dancing clear to midnight and come back at 8:00 o'clock the next morning. They don't care whether you come in, as long as you would obligate yourself to that kind of a contract.

There is no failure of consideration with the dance contract, they offer to provide the services, but may I say just one comment that I omitted with respect to dance studios.

It is my feeling that with respect to these dance studios, the thing that is being sold primarily is sociability. I think there are a good many lonely people in this world and particularly older women who are bored and do not find all the companionship that they wish that they had and they can procure this through these dance studios. The dance studios do not carry the stigma that these social introduction clubs carry, being an obvious frank means of trying to meet someone. Instead they offer dancing lessons, but these dancing lessons contain with them an eligible instructor, some 2 to 3 decades younger than the customer herself and he is very gracious to her.

I am not suggesting that there is anything illegal about this procedure.

ASSEMBLYMAN SUMNER: In fact, maybe she feels she has value received?

MR. JEWEL: The way some of these cases come up, is that the heirs of estates or potential heirs of estates are the ones who are unhappy. A woman obligates a high percentage of her estate, an elderly woman.

ASSEMBLYMAN SUMNER: You are getting right to the crux of the problem. You aren't going to say that a person can't

spend their money the way they want to? If that's what they want to do with it, if they want to light cigarettes with it, that's their prerogative?

MR. JEWEL: I agree with you that we can't say to them anything. But in this kind of a situation where there is no holds barred with respect to the price, nor the time, I would certainly like to see every inducement offered to these people to only sell or only buy what they are using at the present and if the situation comes about where they cannot use it in the future, for example, a heart condition or a medical condition for an elderly woman, and where the doctor says that dancing is contra-indicated, then I would not like her to have suffered for having signed up on a contract for X thousands of dollars into the future that she cannot use.

ASSEMBLYMAN SUMNER: Some limitations on the contract?

MR. JEWEL: By all means.

CHAIRMAN BIDDICK: Any further questions? Mr. Carrell.

ASSEMBLYMAN CARRELL: I would like to ask as to how big a proportion of dance studios or health studios follow these practices. Is this prevalent in the industry?

MR. JEWEL: Mr. Carrell, so far as I know this is standard procedure in the industry.

ASSEMBLYMAN CARRELL: In other words, this is the way they do it?

CHAIRMAN BIDDICK: Isn't there a distinction though between the dance studios, between these that offer long term contracts and there are others that don't feature this method of operation at all? Aren't there many dance studios that give instructions on a lesson basis? You don't mean to imply that they all use that practice?

MR. JEWEL: I have to confess that my area of interest has been fraud and not dance studios and if there are dance studios which have not been involved in this kind of thing, then they haven't come to my attention and they wouldn't.

CHAIRMAN BIDDICK: I think there are many locally operated dance studios which don't follow this pattern at all. I am inclined to think that is a fact. I just observed this; I guess we are through, but I think that none of us want to impose another regulatory Bureau on the State. I don't believe anybody is in favor of that. In fact, Howard Thelin would probably like to undo about half that we have. I don't think we are looking for anything of that sort, but also having been a prosecutor at one time, I am aware of the great difficulties there are in making out these fraud cases. And when there is a way in which we can protect the public, and sometimes they have to be protected, without involving extreme regulatory measures, I think that it's almost our duty to do that and to me that's the purpose of these hearings. To find out just how serious these abuses are and then to try to find the simplest and most direct and fairest way that we can take care of these obvious frauds.

I think that's our major issue.

MR. JEWELL: Would the Chairman or would the Members of the Committee like these documents that I have referred to here?

CHAIRMAN BIDDICK: Yes, we'd like to have all of these as part of our Committee record. We will not make them a part of the transcript, we will just receive them. Thank you very much, Mr. Jewell, for being with us and thank you for your presentation.

MR. JEWELL: Thank you.

CHAIRMAN BIDDICK: We have listed next Mr. John Dean of the -- I forgot that we had another member join us, our Vice Chairman, George Willson from Los Angeles County sitting at the end of the table. Very happy that you could be with us today.

Our next witness is Mr. John Dean of the San Francisco District Attorney's Office, but he has requested that he be permitted to testify this afternoon. We do have Mr. Vernon Libby, General Manager of the Better Business Bureau of San Francisco who would like to testify this morning. So we will just switch those around. Just as a suggestion, we do have a number of witnesses and probably it would be best if you would restrict your observations to 15, 20 minutes so as to give us time for a few questions. Mr. Libby.

MR. LIBBY: Mr. Chairman, and Members of the Committee, I am here at the request of the Committee to make a statement regarding facts registered in the files of the Better Business Bureau of San Francisco.

The Better Business Bureau cooperates with all law enforcement agencies and seeks to obtain voluntary compliance with all existing laws. When existing legislation fails to clarify a trade practice problem, the Bureau works with the industry concerned to develop voluntary standards of practice. Rarely does the Better Business Bureau seek new legislation and then only upon specific action by its Board of Directors. Whenever trade practices come to light which the Better Business Bureau management considers to be not in the public interest voluntary correction is requested. This best can be illustrated with respect to a dance studio which will be identified as Studio A.

STUDIO A. This company in 1957 was using what it called its "Telephone Guest" plan. An employee of the studio would call as follows:

"Good evening; this is Miss X from the A Dance Studio and our publicity department is featuring a Dance Contest. If you can answer the Dance Question for this evening you will win a \$25.00 Dance Studio Course. Are you ready?

Q.: Can you name a song with the word "Dance" in the title?"

If the answer is correct, the person phoned is congratulated and a lesson appointment made. If the answer is wrong, a consolation price of 2 complimentary Dance Lessons is given.

Complaint was registered with the San Francisco Better Business Bureau using these words: for example, "In good faith I went and had a 20 minute lesson and a "sales pitch" of how this was not a course I had won but a deduction from the price of a dance course if I signed up."

The Bureau also received complaint in these words: "I believe this studio uses too much pressure to get people to sign contracts".

The enrollment contract then used was marked "non-cancellable", and specified among other things, the following: "It is further agreed and understood that I shall not be relieved of my obligation to pay said tuition herein agreed upon and that no deduction allowance or refunds for any tuition paid and due under this agreement shall be made by reason of my absence or withdrawal. I UNDERSTAND THAT NO REFUNDS WILL BE MADE UNDER THE TERMS OF THIS CONTRACT. The regular price of \$7.00 per $\frac{1}{2}$ hour will apply on all lessons not on a specific course. I acknowledge that I have received a copy of this contract at the time of execution and I understand that this course of X number of hours of dancing lessons expires on such and such a date.

At the end of 1957, the San Francisco Better Business Bureau had a conference at the Bureau office with eleven representatives of subject dance studio organizations. At that time, the "life membership" situation was discussed, and the Bureau was assured that sufficient prepaid funds are deposited in escrow to assure completion of the studio's obligation to students. We have no evidence one way or the other with regard to the escrow. All other complaint situations likewise were discussed. Since that time, some $2\frac{1}{2}$ years ago, there have been only 3 complaints registered with this Bureau and only one of them remains unadjusted.

STUDIO B. We have as exhibits three complaints received during 1960 regarding Studio B. The first complaint recounts contact as a result of \$35.00 of allegedly "won" dance lessons, converted to a contract for more lessons, but because of spine injury complainant was unable to take any of the lessons for which the contract was signed. Complainant paid contract amount in full but NO REFUND WAS GIVEN THOUGH SHE WAS PREVENTED BY PHYSICAL CONDITION FROM GOING AHEAD WITH LESSONS.

In regard to the same studio, the second complaint arose from 6 dancing lessons allegedly "won". In this case a contract was signed for more lessons, none of which were taken due to health reasons. The collection agency apparently has ceased to attempt to collect for services that cannot be used in this case.

The third complaint has to do with an unfulfilled \$12,000 life membership, with the studio now at least temporarily closed. Owner currently insists that the studio will

reopen or that membership will be transferred to another studio which will fulfill the terms of the contract. This last therefore is pending, we don't know how this will come out.

HEALTH GYM NO. 1. Records of the Better Business Bureau of San Francisco indicate that a total of 38 complaints were registered against the subject during the period December 18, 1958 through May 3, 1960. Of these 38 complaints, 31 have been satisfactorily adjusted now.

It should be explained that the mere adjustment of complaints when brought to the attention of the No. 1 Gym management by the Better Business Bureau does not erase the fact that these complaint situations did occur and continue to develop, despite the fact that two meetings have been held at the San Francisco Better Business Bureau offices to bring the facts to the attention of the Gym management endeavoring to eliminate the source of the complaint reasons. Since one of the meetings held the first of 1960, a total of 10 complaints have been reported to the Better Business Bureau directly plus two indirect complaints registered either directly with the Gym or sent to the Consumer Fraud Division of the Attorney General's office with copies to the Bureau. These latter complaints, although not listed in our count here, were adjusted and the contracts were cancelled.

Analysis of complaints to the Better Business Bureau lays emphasis on the signing of conditional sales contracts for Gym membership in instances where the facts of such a contract allegedly have been misrepresented orally to the prospective member. These allegations include:

1. The prospective buyer was not made aware that he was signing a legal contract.
2. The complainant was given some statement about the nature of the offer which was not stated in like terms in the contract.
3. The Gym Management misrepresented the terms of the contract to a person who - because of foreign birth - was unfamiliar with the English language.
4. The complainants were told about the services of the

Gym in a statement which allegedly is inaccurate and about services which the Gym was unable to perform, such as the use of a non-existent swimming pool.

In one case, it was reported that a mental defective was induced to sign a contract.

Selling practices with respect to this organization have been the subject of complaint. At one time, girls would demonstrate reducing apparatus on the street level at the entrance to the Gym and passers-by were addressed by these girls soliciting a visit to the Gym. Complainants alleged that thereafter they were "high pressured" into signing conditional sales contracts for membership services. The extent of these so-called "high pressure" tactics was brought to full recognition when a girl of foreign birth, in a signed statement made to this Bureau in the presence of witnesses, stated that she had visited the Gym as a guest. copy

She took some exercises, according to the report, and was later shown into the Gym office where she was firmly asked to sign a contract. When she refused - since she expected to return to Europe in the future - another man was called into the office and he helped try to "persuade" her. She alleged that she believed the other people (users of the Gym service) had left the Gym as it then was closing time and that she became frightened. She stated that although her friend was just outside this office she believed that she was being prevented from joining her, and then she became frightened and tried to leave. When she tried to open the office door, she thought it was locked. Neither of the two men in the office made any move to open the door for her and she hastily signed the contract placed before her and then left the Gym.

On the basis of this and other complaints, the meeting previously referred to was held at the Bureau offices the first of 1960. Present at the meeting were the administrative director for the company's western Gyms and the operations general manager for this area. The problems were discussed and on the basis of conclusions reached the administrative director of the company wrote to the Better Business Bureau:

1. Street exercise and solicitations on the street

were discontinued.

2. A special meeting of Gym personnel was held, pointing out the various problems resulting from what was referred to by the Company as "over-enthusiastic selling".

3. The owners' own shopping service, investigating their own selling practices, was stepped up.

4. The advertising format for the entire state was reviewed with the object in view of eliminating questioned-for-accuracy selling prices from the television commercials.

The Better Business Bureau believes that, for the most part, desired changes were made. However the "over-enthusiastic" selling results have started to show up again. A purported "survey" type of telephone solicitation has since been reported, the ideal dimensions of either Mr. or Miss America being asked. Complaints have been reported to the Gym and we are now assured that the objectionable solicitation has been dropped. Instead a "Free \$15 trial membership" is offered now.

A final report refers to a health studio operation that now is defunct. For that reason, because it's been covered in the press, we shall name the studio.

AMERICAN HEALTH STUDIOS, et al: American Health Studios have been known to the Better Business Bureau of San Francisco files since August 1957. During the one-year period through August 1958 the Better Business Bureau received thirty complaints, concerning such aspects as delay in scheduled opening dates, changes in days or hours during which the studios were open, unauthorized billings, and unsuccessful attempts to cancel membership contracts after illness or injury. At least four alleged inability to obtain specific services included in the contract.

Some complaints alleged such high-pressure sales methods as indicating that a membership price would be in effect "today only" when the customer hesitated to sign a contract immediately. Other complaints alleged advertised low prices such as \$1.50 per week, or \$4.50 per month, but were available only on extended contracts of a year or more, although the advertisements made no

disclosure of such restrictions.

Complaints were answered by the company, although some were of a controversial nature and therefore were not adjusted to the satisfaction of such complainants.

One complaint in Better Business Bureau's files alleges that the customer signed a contract for membership in another section of the state, on the assurance that the same facilities would be available to the customer when he returned to his home in San Francisco. This transaction took place in July, 1959. (The studios in the San Francisco area had discontinued operations prior to that time). Although the complaint was forwarded to the studio, which is the subject of the complaint, on March 28, 1960, no reply was received.

This operation became very involved. Under one name it had collected long-term prepayment of contracts. When this company went out of business another company master-minded by some of the same people offered for a transfer fee to convert memberships from the defunct company to the new one. Later the new one also went out of business. The sequence in detail of this complicated operation is as follows:

TOWN & COUNTRY HEALTH SYSTEM, et al: The Better Business Bureau was informed in February 1959 by two representatives of Town & Country Health System that it was a new corporation operating the studios of American Health Studios after January 19 1959, and that use was being made of two DBA trade styles for collection purposes. It was indicated that memberships would be sold on contract basis only, with no fluctuation in prices and no "lifetime memberships" would thereafter be sold. We have been asked to furnish information regarding leases.

(Questionnaire completed in March, 1959 indicated business property was leased by Town & Country Health Systems, but length of leases was not given.)

In April, 1959, a representative of Town & Country Health System, in a letter to the Better Business Bureau, disclaimed, "in our purchase of these studios," Town & Country's liability for life memberships or "for giving all those things that American Health Studios has contracted for ... "and stated

"We therefore feel that we are treating those memberships very liberally when we provide a membership in our studios... for a comparable period of time to the membership they held, the only limitation being that we cannot grant memberships beyond the period of time our company will operate the studios..." That period of time was not disclosed.

A circular from Town & Country Health System to members of American Health Studios offered to discount the balance owing on American Health Studios contracts for immediate payment, and explained: "...the company plans to do considerable remodeling, refurbishing and improvement...Financing to cover the cost of this work was in process when the thought occurred to us that you, as members, could provide the dollars required to make these improvements and at the same time profit from the improvements we are going to make just as would the financial institutions which would have loaned us the money to do the work.."

Town & Country advertised that it would convert memberships from American Health Studios for a transfer fee. During the period from January, 1959 to May 1959, our Better Business Bureau received approximately 300 telephone inquiries from the public, requesting information concerning the relationship between these two companies and the legality of Town & Country requiring such a transfer fee. The Better Business Bureau received no evidence indicating any illegality in such a procedure.

During the same period of time, the Better Business Bureau processed fourteen complaints, of which twelve involved memberships obtained from American Health Studios. Town & Country Health System answered the complaints, a few of which were of a controversial nature, and which therefore were not adjusted to the satisfaction of the complainants. Others of the complaints were adjusted by cancellation of the contracts.

In May 1959 reports were received by the Better Business Bureau that various of the studios were closed. Involuntary bankruptcy petitions were filed in late May, and subsequent inquirers who indicated they had a basis for doing so were referred to the Referee in Bankruptcy. The press gave detailed coverage of the American Health Studios-Town & Country Health System case, and nothing further is needed.

This, gentlemen, concludes our report.

CHAIRMAN BIDDICK: Thank you, Mr. Libby. Questions by Members of the Committee? Mr. Willson.

ASSEMBLYMAN WILLSON: Mr. Libby, I think that's a very fine report and I can see that your Better Business Bureau is rendering quite a service to the public.

I'd like to ask you, do you have any way of determining the degree of these abuses in any particular industry?

MR. LIBBY: The degree is determined by the number of complaints which we receive and the pattern that they show and as indicated here, when it shows a pattern which might conceivably be converted into scheme and design, we move accordingly.

ASSEMBLYMAN WILLSON: Apparently you have been helpful in solving some of these problems through your Better Business Bureau?

MR. LIBBY: That is our business, to attempt to work these things out on a voluntary self regulation basis.

ASSEMBLYMAN WILLSON: Then let me ask you this, do you feel that there is a sufficient degree of abuse to warrant some new Legislation in this field?

MR. LIBBY: I am not permitted to answer that question in view of the fact that we recommend Legislation only on specific instructions of the Board of Directors of a Better Business Bureau. We simply deal in facts up to that point.

CHAIRMAN BIDDICK: George, I just want to interrupt for a minute. Now, if we do come up with some proposals that the Committee is in favor of and they are circularized to the various Better Business Bureaus, are they apt to take the stand? Say your Board, would they be apt to take the stand, and say they are in favor of it?

MR. LIBBY: Each Better Business Bureau is autonomous. It would be determined by each individual Board of Directors of each individual Bureau. A request could be made to the Board and

it would be acted on.

CHAIRMAN BIDDICK: Any other questions? Would you say just in a general way that the complaints were of fairly high level in this particular business in your area?

MR. LIBBY: Yes, particularly with respect to the gyms, the health gyms.

CHAIRMAN BIDDICK: Mr. Carrell.

ASSEMBLYMAN CARRELL: I'd like to know just how prevalent this is? Do you have a lot of gyms and do you have complaints on all of them or are there quite a few that you do not have complaints on?

MR. LIBBY: Undoubtedly, I'd have to answer somewhat as Mr. Jewel did. We get the information if there is trouble and the number regarding which there are important complaints registered are limited in our area. The number of organizations.

ASSEMBLYMAN CARRELL: You have a comparatively few then?

MR. LIBBY: That's right. We have covered here, as you have noticed, 4 organizations not counting the successor organization to American Health Studios. That was the principal area.

ASSEMBLYMAN CARRELL: Quite a few more studios in the City of San Francisco?

MR. LIBBY: Oh, yes. We believe that your interest was merely in those studios that had certain practices and it was on that that we had made our report.

CHAIRMAN BIDDICK: We were interested in the problem children as far as you are concerned. Mr. Sumner.

ASSEMBLYMAN SUMNER: Just one question. Where do you get your funds to maintain your Better Business Bureau?

MR. LIBBY: The Better Business Bureaus are maintained by the voluntary membership subscriptions of people engaged in free enterprise, either as professional people, lawyers, account-

ants, business people, who believe in the American Enterprise System and feel that it can be strengthened by working these problems out if possible on the basis of voluntary self regulation.

ASSEMBLYMAN SUMNER: And do you come under any united fund type of contribution?

MR. LIBBY: We are not recipients of any contributions. We are recipient of membership subscriptions, memberships which are simply a part of business expense of legitimate business operations.

CHAIRMAN BIDDICK: Mr. Willson.

ASSEMBLYMAN WILLSON: Mr. Libby, you mentioned that each Bureau is autonomous. Do you belong to any organization or association of Better Business Bureaus?

MR. LIBBY: Each organization permitted to use the Better Business Bureau name is a member of the Association of Better Business Bureaus. For ease in describing it let us say that we operate the Association of Better Business Bureaus the same as people in the various states operate the Congress of the United States. We send our representatives to function on committees of the Association. That is a coordinating organization.

CHAIRMAN BIDDICK: Mr. Stevens, do you have a question you would like to ask?

MR. STEVENS: Yes, I was just wondering, of your complaints, have they ever concerned studios where the sale of long term contracts were not involved?

MR. LIBBY: I couldn't answer that with any degree of accuracy. If so, such complaints would be in the minimum and therefore not particularly directed to my attention. We have a staff of 12 and obviously all cases in matters do not come to my attention unless there is a reason as in this present case where we are investigating certain phases of it.

CHAIRMAN BIDDICK: It's your thought that the biggest

area of abuse which has been brought to your attention is in the long term contract?

MR. LIBBY: That's right.

CHAIRMAN BIDDICK: If there are no further questions, we thank you very much, Mr. Libby.

I am going to call on Mr. Sobieski, the Commissioner of Corporations now. This Committee is quite well acquainted with Mr. Sobieski, we have had two lengthy hearings on the Uniform Securities Act. Mr. Sobieski.

CHAIRMAN BIDDICK: We have asked Mr. Sobieski to give us a presentation on his views of the American Health System - Silhouette operation, and possibly a little bit about the financing of health studio contracts with the California Financing Institutions and the feasibility of proposed regulations through his office.

MR. SOBIESKI: Thank you, Mr. Chairman, and gentlemen of the Committee. I think you are engaged in an important inquiry here and I think it's a matter that certainly deserves the careful attention which you are giving it.

The suggested regulation by the Division of Corporations was one which was not made by my office, but I would feel that that may be one possible method of an approach to the long term, long range contract, not to the short term contract. With respect to American Health Studios, which was previously mentioned, the Division of Corporations is currently investigating that matter in connection with the San Francisco District Attorney's Office and I saw that Mr. John Dean was going to be one of your witnesses here. I will leave the gory details of that to him and confine myself merely to the financial aspects of it.

Our investigation indicated that during 1956 memberships were sold to the public at a total price in excess of 1 million dollars, to the California public, and during the period January 1, 1957 to the close of business, June 30, 1957, collections from the sale of memberships totalled 3,637,860 dollars.

American Health Studios is a Delaware Corporation. Many of the companies engaged in health or dance who are doing it on a large scale, apparently organize a separate corporation for each operation and organizing then in Delaware, and issuing their stock there, under the present law they have no reason to come before the Division of Corporations for any authority to take money from the California public.

If a company is going to operate at a corporate form and organize a separate corporation for each operation in each particular city, because presumably of their tax benefits, and also of course it insulates the promoter if one particular operation goes broke, it wouldn't be, it seems to me, particularly burdensome to require organizations of that magnitude to submit

their plan of operations including their service contract form to the Division of Corporations.

However, I think the concern mentioned by the several members of the Committee to avoid unnecessary regulation is a concern that all of us have at heart and I think that we can perhaps, and I suggest as a guiding line for what might be subject to regulation and what is not subject to regulation, is if the contract which is offered to the public is of such length or of such magnitude, we can say they are really raising capital rather than conducting ordinary business. Then I think you would be justified in saying that if a company is going to raise its operating capital through the sale of long range memberships, the risk to the public is just about the same as if it's raising its operating capital through the sale of stock and you will recall the Better Business Bureau Manager very properly pointed out that where a company sold life term memberships, they were going to put that up on a business basis, then they should set aside sufficient capital so that they could perform those life term arrangements, and therefore, in that case they provided for an escrow of funds which they thought were sufficient to enable them to perform their obligations.

I think if a member of the public is offered a 3 months lesson, he is not going to lose too much, if he loses. Therefore, in balancing the benefits of regulation against the burdens of regulation you can very well say that short term contracts are sold fraudulently. We regret it, but you have to draw the line somewhere. On the other hand, if the length of the contract is such that a business man would properly set aside out of certain amounts of capital to perform that contract, then in that event I think they are properly subject to regulation and you could in that event require them to apply for a permit.

But such an exemption seems to me would include all of the small operations -- the ordinary local person who wants to conduct a dance studio or health studio and sell lessons because there a person really isn't engaged in an operation of raising capital.

As you know, the so-called Tucker Automobile Company -- of course, that wasn't a dance studio, but they raised throughout the country several million dollars through the sale of franchises

to sell the automobile that was never built. So, if the company is in effect raising capitol, then I would think that perhaps regulation of the permit type would be quite appropriate. I would like to conclude my remarks and then I will answer any questions, of course, by reading an article which appeared in Arthur Kaylor's column of the Call News. It says "free enterprise is wonderful. Artist Lenny De Carlo has been shilling" (and that's the word that is used) "Friends on behalf of a shoe shine boy who issued a punch card. Six shines for a buck. There is enterprise for you", he kept saying. "Yesterday he went in for his third shine and the new shoe shine boy had just no idea where the old shoe shine boy had gone after peddling maybe 500 cards. The chap with the red face, that's Lenny."

CHAIRMAN BIDDICK: Well, we won't try to cover the shoe-shine business. Any questions by the Committee Members? Mr. Thelin.

ASSEMBLYMAN THELIN: I want to make sure I understand you, Mr. Sobieski. It's your idea then that the condition of regulation should be the length of the contract? In other words, you would favor Legislation saying that if a prepaid contract was of a certain duration then it would require a permit?

MR. SOBIESKI: I said duration and magnitude, sir, and I think we should have both factors. If we are only talking about a relatively small amount of money, then we reach the situation where the burden of regulation perhaps is worse than the good that would be accomplished. I think we have to try and draw the line as to whether we are talking about a substantial amount of money and a substantial period of time.

ASSEMBLYMAN THELIN: How would you specify the magnitude in Legislation generally speaking. Would it be your idea then it would be the number of cities a project covered or the amount of money they were asking for the free service contract? It's a little vague to me what criteria you would set up in the statute.

MR. SOBIESKI: Well, that would be a problem. The objective in my mind is a purely business one. If they are in effect raising capitol to operate their business with, then, I think they are the same as selling stocks. But if they are in effect just running their business and charging services, charg-

ing for their services, and if they pay a discount for a person who buys a few services in advance, obviously they are not raising capital.

Now, to draw the line as to exactly how you accomplish that is perhaps a matter which you will want to decide after you get the final bit of evidence, but I would suggest both length of contract and amount involved. But the point we are getting after, which I suggest for an approach on the possible regulation by my office, if you are considering that, if we can look at it and we say they are doing this, they are doing more than selling, operating their business, they are raising capital.

ASSEMBLYMAN THELIN: I have nothing else.

CHAIRMAN BIDDICK: We have listed under our proposals sort of an outline on page 15 and 16, the permit system as we use it under our Corporate Securities Act, but we have not suggested at this point, consideration of any figure or any time length because I think this is so much in the general discussion stage that it's not appropriate to do that at this time.

MR. SOBIESKI: Thank you, sir, and in the letter which I have addressed to you with several copies, I did suggest that the exemption features be spelled out in detail because I would suggest that we require a permit only in those cases in which, looking it over, we could say they are raising capital for their business through the sale of membership.

CHAIRMAN BIDDICK: It's very nice to see you again and the Committee may see you again before the end of the year when we have one more hearing on the Securities Act. It seems to be going along very nicely. You are doing an excellent job.

MR. SOBIESKI: Thank you, Mr. Chairman. The matter that your Committee is handling seems to be going along very well ordinarily.

CHAIRMAN BIDDICK: Thank you. We also have with us our other witness listed this morning, Mr. Raymond Lloyd of the Federal Trade Commission. Mr. Lloyd is in charge of the San Francisco office, he is familiar with the recent citation of one

dance organization for misleading advertising and we felt that it would be desirable to ask Mr. Lloyd to come here and tell us a little bit about their advertising practices they are concerned with.

Naturally, we are not going to ask him to comment on proposals for State legislation, I don't think that's within the scope of his office, but I felt we should at least invite him here to find out what the Federal Government is doing and what particular abuses they are concerned with. Mr. Lloyd.

MR. LLOYD: We are very happy to be here, Mr. Chairman. Thank you for inviting us. As you have described here about my not being able to talk on the proposed Legislation, I would like to repeat again that there are certain ground rules, that I am not here officially representing the Federal Trade Commission, but only as a citizen of California with some experience in these particular fields.

I might say that I have no prepared statement as such. I do have a rough outline and I'd like to give a little background which would tend to explain some of the later comments I might make.

The use of prepaid contracts, regardless of the term of service, has not been held by the Commission as violative per se of the Federal Trade Commission Act. The basis for the Commission's complaints is its attack on the unfair and deceptive means by which respondents induce persons to execute these and other types of contracts. It should be noted that the experience of the Commission in this field is very limited. We have had no cases against so-called health studios. Our first case against dance studios is the one that involved the recent complaint against Arthur Murray.

Perhaps this is due to the fact that both of these types of businesses involve services and the history of the Commission up until recently has tended to go along, to take jurisdiction over certain practices in Interstate Commerce where certain sale of a commodity, a physical product moved across the State line.

As evidenced by Arthur Murray, the case against Arthur Murray, and in other fields where contracts were entered into, payment was made prior to the actual rendering of a service of recent vintage, the Commission no longer looks on this as a problem of jurisdiction and we are proceeding at a rapid rate in the field of services.

As I said before, the only indication that we have had that is directly related by name into the two areas of activity in this proposed Bill, or the proposed Bills that are now being considered by the Committee, is the Arthur Murray case.

However, long before the Arthur Murray case came up, the Commission went into acts and practices of businesses in Interstate Commerce where what we would call prepaid contracts were involved. Such fields of endeavor were the advanced fee operations, both real estate fees as well as loans to businessmen, correspondence school courses, vending machine sales, and then later on I'd like to summarize a group of just a few isolated ones that come all into these same categories.

The advance fee operation involving real estate fees, the first one we had in that was in Docket 6537, and may I ask the Committee at this time, I have with me most of the complaints and orders that the Commission has issued in each of these Docket matters which I propose to comment on and if you would like to have them I will be very happy to leave them with the Committee.

CHAIRMAN BIDDICK: Yes, we would be very happy to have them.

MR. LLOYD: The first one was Docket 6537 involving National Business & Property Exchange, Inc. which was unfortunately a California concern.

Outside of the complaint, it is my understanding that the people that were involved in this received wide acclaim as the best examples of successful veterans returning from the war and making millions and millions of dollars in this particular business. But this involves the sales of what was known as real-estate advertising. They had a publication known as National Buyers' Guide. They went to people located in the middle of the forest and small towns, crossroads, all over the country which included both the uneducated land owner as well as some of the medium sized business firms where the program that they were selling was an advertisement in this guide which was to be circulated in quantities of 150,000 throughout the United States.

They were also to be tied in with the use of these guides, National Buyers' Guide, with well established real estate firms and then in addition to that, the buyer of this service got a confidential list of buyers which was represented as being a hand picked group of people that wanted this particular piece of property and had money ready.

The investigation developed that contrary to the representations -- may I go back a minute. The service aspect of it was that this was practically a guaranteed sale of real-estate so that the person who followed their instructions, if they do not make their sale immediately, the service was to continue over a prolonged period of time until they actually did sell through this service.

The fact of the investigation clearly showed that National Buyers' Guide was truly a work of art, that the purchaser of the service advertisement of his particular piece of property was in there, that it was circulated, not quite in the quantities but substantially throughout the country. However, it was circulated to anyone who would answer a little spot ad in a magazine saying "if you would like to find out what the business conditions of the United States are, write in and we will send you a booklet on it." Well, this was the type of circulation that this guide received.

Then going into the crux of the thing, which was the confidential list of buyers, we found that those who had written in for this National Buyers' Guide were the same names that appeared on the confidential list of buyers that in many instances the people were just motivated by idle curiosity. We had one sold here in Korea who wanted some reading material and his name appeared in this confidential list of buyers. Obviously, the persons who participated in this were deceived, the Commission proceeded and fortunately were sustained and this company is no longer in business.

There are several others along this line. Docket 7103 and Docket 7248. Docket 7326, Docket 7341, Docket 7448. These all involve the sale of this advertising service to prospective clients who wanted to sell business and real estate property.

Now, as a result of the Commission's actions in this field, these same individuals closed up shop very quickly because our prohibitions forced them to stop their deceptive advertising practices and this was the only way in which they could sell their services, so as a result it had the indirect effect of forcing them, many of them out of business. These same individuals then moved from this field into the recent widely publicized field of activity, namely that of advance fee

operators which I am sure the State of California well knows all about and that is the loans to businessmen. And this is the case where the victim paid a fee for nothing. A fee for nothing more than a promise by the promoter that a worthless recommendation will be made to a legitimate lending agency.

I have some of the cases here, Docket 7338, Docket 7449 and Docket 7350.

I also have with me here, I don't know whether it would be of interest to the Committee, but I have photostatic copies of some proposed Legislation, both Federal and State, where as a result of the increased abuses in these fields, Congressmen, Federal and State began to get excited about it, the complaints began to roll in so they took steps to try to pass Legislation which would regulate this specific practice and if the Committee is interested, I would be happy to leave those here.

Not that I recommend them or comment at all on the type of Bill.

But then we go from that into the correspondence school courses which we have had success in investigating and proceeding against for many years, and this is not exactly the same type of thing as the health and dance studios which you are concerned with, yet it is a case here again of where a buyer pays all or the majority of the amount down and then he is to get something over a prolonged period of time. Again here the representations were the things that we challenged as to the validity of the course to do what it was purported to do, and certain other specific representations such as the availability of jobs, the high salaries represented and so on like that.

But in all of these cases the appeals of this contact advertising and thereafter the representations of fast talking salesmen are aimed to strike at a wide variety of vulnerable human emotions and that unfortunately in all of these cases we find that the recipients of this type of practice are the ones who could possibly least afford it. They are cripples, shut-ins, people who have limited education and finding it difficult to get the higher paid jobs without some type of education, so that not only in the health and dance studios, where earlier comment here tended to describe in a very limited way what type of people

this type of course or service would appeal to, but in this correspondence school course we find here that again the Commission had to protect the public and that many of them too late found out that they were deceived and again there was nothing they could do against any type of litigation with them.

The next area where contracts are entered into where a service is to be provided over a prolonged period of time concerns vending machines. And again, this is a practice that has been with the Commission for quite some time and we have had no difficulty with it. This concerns advertisements frequently published under the help wanted columns which claims that a comfortable living can be made with little effort by only part-time servicing of respondent's machines. Respondents in this case would also be the manufacturers of the machines. Respondents represent that they will set the prospects up in business with an established route, obtain choice locations and supply merchandise at cost.

The motive and basis for the Commission's actions, of course, again are that the company, after making the sale, substantial amounts of money involved, did not live up to its promises of the services that they had agreed to provide.

Cases in this particular field would be Docket 7050 and Docket 7017.

Now, we get into the one case that I am sure would probably be of most interest to the Committee and that is Arthur Murray Studios. In this the complaint was issued in March 25 of 1960. The complaint is aimed at the corporate respondent being Arthur Murray, Incorporated, a Delaware Corporation and individually Arthur Murray and Kathryn Murray and David A. Teichman, individually and as officers of said corporation.

Much has been said here today already. I am sure that in the evidence which you will be getting, including this copy of the complaint which I propose to leave with you, you will get all of the facts of the operation. I would like to only briefly comment on a few of them here.

Something was said about putting money in escrow. The complaint here, and I am limiting my statements to what is

contained in the complaint, the statement in the complaint says "the licensed dancing studios conduct their respective businesses under the supervision of and with the assistance and advice of respondents." This is Arthur and Katheryn Murray and the Delaware Corporation. "And pay the corporate respondent approximately 10 percent of the gross receipts received from the operation of said dance studios. Each licensee also pays an additional amount, usually 5 percent of the gross receipts to the corporate respondent to be held in escrow to protect and indemnify the corporate respondent from claims arising out of the operation of said licensee studio."

The Commission proceeded here on several specific charges and picked out certain of the practices which it believed and formed the basis for its complaint, led to this unfair acting practice and deceptive acting practice engaged in by the local studios in contacting the people throughout this area of activity.

For example, it was established that the rates are fairly well fixed, they are computed and set forth on rate sheets showing the amounts to be charged pupils or prospective pupils for dancing instructions ranging from one hour of instruction priced at approximately 20 dollars to 1200 hours priced at approximately 12,000 dollars. Now, I'd like to depart here just a few minutes and say that it is my understanding that when we talk about a lifetime membership we are talking about 1200 hours of actual dance instruction. Now, in addition to that there are other certain benefits that go along besides the instructions, such as parties, escorted balls periodically, also they earn while they learn, if they sign up for a life membership.

I understand that they earn a certain number of additional hours during the running of this, so that when you are talking about lifetime we are not talking about whether a person is 19 years old or 69 years old, because 1200 hours conceivably is possible to complete if that was their intent to complete it.

Now, there is also a junior lifetime membership priced at approximately 7500 dollars each, calling for similar but proportionately less benefits. Again these benefits being their membership, the right to come in and out of studios and to brush up, take up brush up courses and attend certain social functions.

The Commission now, in its charges went directly to these practices which it felt led these people to sign up for these lifetime memberships and in some instances several lifetime memberships, and these are the practices.

They found that the local studios promoted certain schemes which included telephone quizzes, crossword, dizzy dans, and zodiac crossword puzzles, lucky buck contests and in each of these cases there was a prize awarded, the prize being a certain number of hours of free instruction, 35 dollar or 25 dollar certificate against signups for additional hours.

The representations were made in radio and television broadcasts, newspaper advertisements, and included not only this type of offer, but they went on to include this type of advertising. And the Commission says that these are typical and not all inclusive. "Learn the secret of being a popular dance partner. A 1 dollar trial lesson will prove you can learn to dance in 3 hours the Arthur Murray way. " And then again, "free, why we offer your first lesson and a party" and the word free is of course emphasized.

The Commission states in paragraph 10 of its complaint, "in the course and conduct of their aforesaid business, respondents directly or through their licensees have employed various techniques or practices as a part of a scheme to sell initial or supplemental courses of dance instruction." And then they go on to list as among and typical but not all inclusive of such techniques "are the use" and I am not reading it intoto, I am just pointing out the various examples by popular reference, "the use of relay salesmanship, the use of so-called analysis tests, studio competition and dance derbies, the use of blank or partially filled out contract forms and by refusing to answer or by evading questions concerning the amount due or payable by falsely assuring pupils or prospective pupils that a given course of dance instruction will enable him or her to achieve a given standard of dancing proficiency, whereas and in fact it is anticipated and planned that such prospective pupils will be and are in fact subjected to further coercive sales and efforts towards the purchase of additional dance instructions before the given course of dance instruction is completed and before the standard has been achieved."

As for the status of this case, they are still within the prescribed time in which they can file an answer, so I do not know what position Arthur Murray will take in this.

Under our Rules of Procedure, a respondent can, instead of denying the allegations here, he can enter into what we call an administrative handling of the matter whereby he can enter into a consent settlement. Now under this he does not admit that the facts which he agrees to violate any law, but that in accordance with the wishes and position of the Commission he will cease doing these particular practices, in engaging in these practices in the future . I do not know what their intentions are going to be.

I'd like to close by making this comment. With the exception of this nomadic type health studio which Mr. Jewel spoke of, of which I think it would be obvious, I don't think we'd have any jurisdiction over that since our proceedings are not criminal, but are civil since the regulation that we can affect is only prohibitory, with the issuance of a cease and desist order. Once a company has in fact closed up its doors and gone out of business, there is very little that we can stop them from doing. So that I would like to exclude that entirely from my thoughts in this particular practice. But I would also like again to repeat that these are my own personal views now and certainly not in any way related to the Federal Trade Commission, but it seems to me that the question of prepaid contracts, those that you have involved here and many of the contracts that I have hit on very briefly here in showing you some of the other areas of interest to the Committee, that it is just a matter of degree and that the skip tracing case, the photograph album case, the correspondence case, the vanity publisher case, the advance fee operator, they have, by engaging in prepaid contracts, they have the person's money in their hands and the thing that they are selling may be a product, but it's a product plus some service and unless we can stop the inducements which go into letting these people sign the contracts, then it seems to me that they have their cake and eat it too. They have the money and the only avenue left to the person who has failed to get proper performance is a private law suit and we all know how difficult and costly that is, and it's a matter of weighing the costs they have in it as against the cost of private litigation and it seems to me that obviously some of these companies would rely on that and

take their chances and usually the percentage is in their favor that people will just forget it and not prosecute it further.

But in these last few cases that I hurriedly went over, skip tracing for example, this again involved the sale of forms whereby they trace skip debtors and it involves a continuing service which goes on in the future. We have had cases come before the Commission where the man sold this service and he agreed to continue to send out these forms until the monies were collected or until the skip debtor was located.

We found out in fact that he only sent out two and then he stopped sending them. In this case the customer did not have any way of knowing, the one who bought the service had no way of knowing whether the seller of the service was actually performing.

In the photograph album case, this involves the sale of a photograph album and a service whereby a customer agrees to buy this album, usually fictitiously represented in its value. Included in that is a service that they can go to a local collaborating studio periodically. Every six months or every year this studio will give them a photograph of their child or their family.

Now, this photograph is, of course, to be put in their album, and the entire scheme was that the owner of the album plan had talked the local photographer into going along because he thought that by getting these people into his shop that he would also sell them other pictures.

Well, he began to find out that he wasn't getting the increased business he expected, so he cancelled out his obligation with the album company and we now find out that the lady in the town who bought the service has no place to get her next photograph taken.

And, in many cases, she has had no restitution made and it has, in some instances, been suggested that she go to a neighboring town where there is still a cooperating and continuing photographer.

In the Vanity Publishing case, we call it vanity

because the whole basis for the success of this practice plays upon the vanity of us the public. Here the fraternity of these businesses got together, and although acting independently, they went to prospective authors in the publication, promising them to publish their works and they laid these skillfully baited, with authors' ego traps, where in most instances it was found that none of these publishers, once they got the person's money and partial contribution to the publishing expenses, did anything further to get his works published.

But again here we find it is the type of person that is susceptible to this type of scheme -- the person who would like to have his memoirs recorded, to put on all book shelves -- the person who wants to have the hit of the year and make a million dollars. These are the people that are attracted to this scheme. Some of the cases that the Commission had in this field are Docket 6638, Docket 7005 and Docket 7180.

I'd like to conclude again with my own personal opinion, that neither professionally nor personally can I condemn all advanced fee contracts. However, such methods of payment first, delivery second, obtained by or characterized by deception, fraud or other unfair methods should be rigidly regulated.

I'd like to answer any questions that I might.

CHAIRMAN BIDDICK: Thank you, Mr. Lloyd. I think we were quite interested in getting the general picture in this field of advanced service contracts, advanced fee service contracts and also we are interested in the over-reaching features because that's the thing that makes this practice come within the examination of this Committee.

Are there any questions by Members of the Committee?
Mr. Sumner.

ASSEMBLYMAN SUMNER: If it takes a request, I'd like to request that that material he has described, particularly the files that you have cited, be left with the Committee.

MR. LLOYD: I propose to do that, I propose to leave that and the copies of all the complaints and orders that I have mentioned here.

CHAIRMAN BIDDICK: We will receive that if there is no objection and they will be made a part of the record.

MR. LLOYD: I hope you understood that this concerns advance fee operators and not health and dance studios.

CHAIRMAN BIDDICK: I think it's of general interest to the things that we will study on this Committee.

Any other questions? I think it's just about time for the Noon recess. Thank you very much, Mr. Lloyd. For those who are here attending the hearings, we will try to get back, if we can, we said at 2:00 o'clock. It's difficult to get the Committee out to a place and back by 1:30, but we are going to try to reconvene at 1:30 P.M.

(Whereupon the Chairman adjourned for the Noon recess.)

AFTERNOON SESSION

CHAIRMAN BIDDICK: The meeting will come to order. We have been joined by two additional members of our Committee, both from Sacramento County. On the extreme right Assemblyman Tom MacBride, Sacramento and on the extreme left, Assemblyman Ed Z'berg from Sacramento County. They had an appearance to make this morning on behalf of the State Fair Project which is very near and dear to their hearts.

This afternoon we plan to go ahead with the people that we have listed here and try to cover all those that we had intended to call on. We have one or two additional witnesses which do not appear here. We will call on them when we finish our list of scheduled witnesses.

First of all we had one witness listed this morning who was unable to be here. We heard from the Better Business Bureau representative of San Francisco, but we did not hear from Mr. Dean of the San Francisco District Attorney's Office. So at this time we'd like to call upon him for a statement. Mr. Dean.

MR. DEAN: Mr. Chairman, I want to correct that name you have on the list. My name happens to be John M. Dean. You have it listed as James Dean, he's a relative of mine. My name is John M. I am the Assistant District Attorney of San Francisco.

On behalf of District Attorney Tom Lynch, we want to state that we are only too happy to cooperate to the fullest extent that we can in giving any information that would be of any assistance to the Committee as far as any Legislation that you might propose.

In the matter of the dance studios as well as the health studios I will outline some of the information, particularly in relation to the American Health Studios with which I have lived practically for the last year and a half, and probably then the Committee Members may wish to ask certain questions. I can be very short as far as the dance studios are concerned as far as San Francisco in this regard, as we have had very few complaints in the District Attorney's Office.

Primarily that may be due to the fact that we have what is known as a citation procedure whereby if there are any complaints with regard to fraud matters, we will either cite the particular individual in, if there is any substance to the complaint as far as prospective defendants and talk the matter over to see if there is anything we can discuss, and if there is something that we feel that is not right or that may lead to future trouble, we inform the individual to see if it can be corrected and in most cases that is sufficient without going any further.

And if the individual doesn't come in usually the top man of the Fraud Department in the Police Department, who is Inspector Edward J. Murphy, who is here with me today, goes out and has a little talk with him. And this in general is very effective. As a result we have had very little trouble as far as the dance studios are concerned. At least there have been very few complaints currently.

CHAIRMAN BIDDICK: Mr. MacBride.

ASSEMBLYMAN MAC BRIDE: Do you condone the long term arrangements on these dance studios where the person signs up for life for 10 or 12,000 dollars?

MR. DEAN: No, we do not condone the practice, but remember we are concerned primarily from the criminal point of view and whether the individual wants to sign a contract, as long as he is doing is freely and voluntarily, that is something beyond our jurisdiction.

But we do not condone that as I will go into the health studio matters later on and I will bring out some of those points.

CHAIRMAN BIDDICK: Mr. Dean is here primarily to speak about the health studio aspect, that has come into his attention.

MR. DEAN: Then secondly, there is the matter of publicity. Several people have called in in connection with the dance studios, but they don't--primarily they are women, and they don't want any publicity. Naturally if there is any action to be taken, there will have to be a complaint signed. The minute that complaint is signed it is filed with the County Clerk's Office or

the Municipal Court, whatever happens to be the case. That is public information and is open to anybody and the newspapers can pick it up and if they happen to play it up, that's one of those things. We have no control over that.

Well, the minute we mention that, the individual doesn't want to go any further. We are hampered to that extent. We have to inform them, that's as far as we can go. So we have very few of those.

As far as the District Attorney's Office and I think Inspector Murphy will bear with me on the same point, it has not been a big problem in San Francisco.

Now, in relation to the American Health Studios, Inc., that has been the study we have had now for almost a year and a half anyway and it came into the District Attorney's Office from the Corporations Commissioner's Office initially when on approximately December 10, 1958, two former employees of the American Health Studios in San Francisco -- their head office happened to be at 48 Golden Gate Avenue -- came in on the basis that they were no longer employed and they had been required to take stock in the American Health Studios, Inc. and they had never been paid for it.

Of course, taking stock in lieu of wages is a violation of the Labor Code, and they had been to the Labor Commissioner and we had been asked to investigate this from the Corporate Securities angle as well as to any other employees that might be involved.

Since these two employees were the only ones involved at the time (they informed us that other employees who had also been required to take stock were still working, and did not wish to be involved), we set up a citation hearing for the 18th of December of 1958 in our office.

Peculiarly as soon as that notice went out, the office of the American Health Studios, Inc. moved to San Mateo County. It moved out of San Francisco County and what few records they did have also left San Francisco. The prospective defendants in this case, from all cases of our investigation are two primary individuals, were Alan Stephan, A-l-a-n S-t-e-p-h-a-n and Raymond A. Wilson of Houston, Texas and that's not to be confused with

Raymond H. Wilson of San Lorenzo, who is an employee but not involved at all.

We cited both of the men. Raymond A. Wilson did not come in, but a Los Angeles Attorney by the name of Ben Gage, G-a-g-e, the same as the actor, called, and said he'd be glad to supply us with any information we wanted but to this day we have never heard from Mr. Gage again. And suffice it to say, never received anything.

Mr. Albert Kessler came in and stated they were in the process of reorganizing and they hoped to, at that time, take these certificates, the interim certificates as well as the certificates of stock and to pay those off in the reorganization and I have brought photostats of one of the certificates and one of the interim receipts which I have not had before your Committee before and I'd be glad to leave those with the Committee today; and the matter was continued and the following day, a new corporation was formed and known as New Form Health Studios, Inc.. The corporation was to take over the studios in Northern California including the one here in Stockton, the one in Sacramento.

There were 22 studios in the northern part of the State and in addition there were 7 Silhouette studios which were part of Alan Stephan and Associates. They had drawn up an agreement with the head office in Houston, Texas whereby they were to buy this studio for a down payment of 110,000 dollars, plus assuming all of the liabilities which amounted to -- well, on the creditors alone in the Bay Area it was close to 300,000 dollars. The vitamin contract alone was to run around 250,000 dollars and so on.

And they were to pay 20,000 dollars down by the 15th of January, 1958. Suffice to say that no money was ever paid on this particular agreement due to the fact that the Bureau of Internal Revenue stepped in, attached the 20,000 dollars for taxes they owed, they owed still other taxes, and to this date to my knowledge, the sum has never been paid. This New Form and its successor the Town & Country, that went into involuntary bankruptcy in May of 1958 and, of course, the original American Health Studios, Inc. went into Chapter Ten of the Bankruptcy Act in Houston, Texas on February 4, 1958 and this sale to the corporation, the California Corporation of New Form and its

successor was never approved by the receiver in Houston, Texas, at any time.

So when the studios were subsequently sold through the Bankruptcy Court (what their status is at the present time I don't know) any number of them were sold by the receiver, who was subsequently appointed through involuntary bankruptcy proceedings. What their correct status is I couldn't say.

But on January 12, 1958, the Corporations Commissioner had Mr. Stephan in the office to ascertain just exactly what the status of this particular American Health Studio, as well as the proposed New Form and its subsequent organization, was to be. It started out originally as the series of Texas corporations, and then in May of 1957, they organized a Delaware Corporation which is really a holding company.

Stephan, although supposedly having a 48 percent interest in the corporation, said he had no stock, but he considered himself a partner. He said Raymond A. Wilson had the other 52 percent, yet he had nothing to show for it. He was running the show as far as the Bay Area was concerned, giving the orders, he was signing all of the various papers going out, except he wasn't signing the checks. He had a very peculiar arrangement on that.

All the monies that were collected in the Bay Area were going into an account near the particular studio, but it all went to Texas. It couldn't be drawn out here. Everything went to Montrose Avenue in Texas, every bill had to go to Texas. The payroll checks were drawn on the bank in Texas, all the bills were drawn there, and as a result there were no records here and the attorney and Mr. Stephan both informed the Corporations Commissioner at the hearing that they had no records and they didn't know just what the status was at that time.

Unfortunately, the creditors of American Health Studios had agreed at a meeting on the 23rd of December, that they would subrogate their claims to this new corporation feeling that if they didn't do so they wouldn't get anything.

Well, there is a question as to whether or not the whole operation was not fraudulent from the outset in view of

the fact that the same people were moving in and taking charge of the new corporation which subsequently went into bankruptcy because soon after the new corporation was formed they had no money. They admitted it would take 100,000 dollars a month to operate, yet they were going to operate on the basis of accounts receivables. They sold 50,000 dollars worth of accounts receivables for 15,000 dollars, yet those very accounts receivables they sold in their agreement with the former American Health Studios, Inc., they said they would not assume those obligations.

Yet they were selling the receivables which they would not assume with the new corporation and subsequently charged a transfer fee. It became more and more involved.

It got to a point they had new employees, they borrowed 70,000 dollars on chattel mortgages and on the various studios in the Bay Area, and, of course, 70,000 dollars wouldn't even operate for one month.

Eventually those chattel mortgages were foreclosed, the employees hadn't been paid, the rent hadn't been paid on the studios, the telephone bills hadn't been paid, nothing had been paid and finally on May 15 there was a hearing before the Labor Commissioner relative to back wages and then Ed Montgomery of the San Francisco Examiner, who had been sitting on the story at the request of the District Attorney's Office broke it, and with that breaking, everybody closed in and closed up all of the studios at that time because they shouldn't have been operating then, on the basis of what we know now. Of course we didn't have it at the time.

So subsequently we contacted Houston, Texas, the Trustee in Bankruptcy there under the reorganization, and asked them for the records so that we might proceed under a possible fraud case and they said that the records they had there were very meager and that they were being reviewed by the Treasury Department, also by the Federal Bureau of Investigation and asked us to contact the F.B.I. which we did and we are still conducting the investigation and hoping that eventually the F.B.I. will provide us with the records through Texas that we will be able to then proceed as far as the fraud aspect is concerned. We can proceed as far as the Corporate Securities Act is concerned at any time.

Now, I was in Houston on September 21st and they filed the so-called final report after I left and in that final report of the reorganization down there -- there were no assets -- where all this money went to nobody seems to know. Several attorneys from the Bay Area went down to Texas and got nowhere as far as trying to find out about the millions which had been taken in -- where it had gone. For example, in the Bay Area there were the five studios in Oakland, who were grossing 30,000 dollars a month apiece.

They were allowed up to 3,000 per studio for overhead, when the operation was only coming to about 2,000 per month. Of the 150,000 there was approximately 105,000 going down to Texas clear.

Whatever happened to that, that just left those five studios, nobody seems to know -- so the question is: do you have any possible regulation.

From what I know of this particular situation here, I feel that if the Corporations Commissioner had been in the picture from the beginning and made an investigation say on the basis where they would have had to set up something as far as reserves are concerned, especially on these life memberships -- 8 and 10 year memberships, (and they were selling life memberships and they were even discounting memberships right up to the day they closed their doors, and the very day they closed their doors. If you owed 100 dollars, they were sending notices, well, we will sell for 50 dollars, knowing full well that they hadn't paid their employees, they hadn't paid their rent and they couldn't go on any longer.

If they would have to have had a permit to begin with and adequate reserves to forestall inadequate financing so that the Corporations Commissioner could have checked any time he thought there was a weakening condition, I don't think this condition could have happened as far as American Health Studios are concerned.

CHAIRMAN BIDDICK: Yes, Mr. Willson.

ASSEMBLYMAN WILLSON: I'd like to ask you, sir, was there any evidence of assignment of any of these contracts for

cash or discount or anything like that?

MR. DEAN: Now, are you talking about the membership contract or the creditors who supplied electricity, rent and so forth?

ASSEMBLYMAN WILLSON: Membership contracts.

MR. DEAN: Yes, those were in the accounts receivable; they sold those to a finance company in Los Angeles. That was one group they sold. They sold 50,000 dollars worth for 15,000, and that's the point that I am making. In their agreement to take over from American Health Studios they didn't agree to provide services for those old members, yet they were taking those accounts receivable and selling them.

What we did in San Francisco, after this firm in Los Angeles sent out these dunning notices, I called them in and said: after all, you knew before you ever bought these accounts receivable that there were services not being rendered, you couldn't render the services, and if you continued to do so we would consider those attempted petty theft. They stopped immediately, nothing further after that.

ASSEMBLYMAN WILLSON: They didn't attempt to collect on those?

MR. DEAN: Not any more after that, no.

ASSEMBLYMAN WILLSON: Well, do you know if you had not intervened whether these assignments were made without recourse or the original contract was without recourse so the defense of the assignee was there?

MR. DEAN: Those first 50,000 were without recourse, subsequently they had a recourse agreement back to the New Form as Town & Country subsequently became, which was practically worthless due to the fact that Town & Country went into involuntary bankruptcy.

CHAIRMAN BIDDICK: Any other questions by Committee Members? Mr. MacBride.

ASSEMBLYMAN MAC BRIDE: I just want to be sure that the fraud you speak of is perpetrated, of course, against the creditors and the fraud you speak of insofar as the buying public is concerned would be these contracts that were entered into that they knew they couldn't perform?

MR. DEAN: That's correct, yes. The extent of the membership is hard to ascertain. I went into 1100 Burlingame and one box of contracts they had there, and, of course, there are practically no records: where they went to that I can't say. But there was one box of 7500 records -- and that would be members -- and there were 15 total boxes. I counted the one box so that roughly we had better than 100,000 members and if you figure between 40 to 50,000 members, you can ascertain the amount of money involved pertaining to these transactions in a short period of time, and one studio, Richmond for example had roughly 7,000 members.

ASSEMBLYMAN MAC BRIDE: I have another question. You speak of the fact that the overhead to operate these studios was 2 or 3,000 dollars a month and that the monthly income per studio was 30,000 dollars?

MR. DEAN: Gross.

ASSEMBLYMAN MAC BRIDE: Gross. Well then, it certainly wasn't lack of business which caused them to fold up, was it?

MR. DEAN: Apparently not. That's something we could never find out because we don't have the books to find out what happened to this money other than the fact it went to Texas.

ASSEMBLYMAN MAC BRIDE: Well why did the business just fold up if there was a clamoring at the door for muscle building courses and so forth, and they were taking in 30,000 dollars a month, why should they close their doors?

MR. DEAN: Because they didn't pay the bills.

CHAIRMAN BIDDICK: Isn't the whole thought that he's trying to get at here, that they didn't intend to provide services when they opened up. They were setting up fraudulent operations, taking as much money as they could to get the money

and pay nobody and then get out.

I think the point is they didn't intend to ever operate legitimately.

ASSEMBLYMAN MAC BRIDE: Let me finish this. What was the actual overhead per month, was it that they were merely given 2 or 3,000 dollars a month for overhead in spite of the fact that the actual overhead was much more than that, or was the actual overhead only 2 or 3,000 dollars a month and then the Texas promoters didn't even allow them that much with which to pay the small amount of bills?

MR. DEAN: They allowed them up to 3,000 dollars and the managers, (I talked to fully 50 employees of the whole group), at no time did they ever use up to that. Usually not more than 2,000 because it was not necessary. That would be the most that they would need to handle the business the way it was going on.

You see, not only did they have income coming in from membership, but they also had vitamin contracts. For example, they had a 6 months supply of vitamins that they sold for 19.75, they only paid 75 cents for that.

ASSEMBLYMAN MAC BRIDE: When you speak of the fact that they were allowed up to 3,000 dollars a month for overhead and then you say that they did not use up to that full 3,000 dollars, well then the bills were being paid.

MR. DEAN: That's what they would have if they were paid, but they weren't paid. This started around September that they stopped paying.

ASSEMBLYMAN MAC BRIDE: Well, how were they allowed this 3,000 dollars? Was it that on the books it said you are permitted to incur expenses up to 3,000 dollars, we will pay that 3,000 dollars from Texas?

MR. DEAN: No.

ASSEMBLYMAN MAC BRIDE: Were the operators permitted to retain the 3,000 dollars for the purpose of paying the bills that came in?

MR. DEAN: No, the studio manager was informed that he would have up to that amount to spend in operating his studio, but he was not given any written instruction to that effect. You see, he was on a salary and commission, that's the way he operated and he didn't get paid.

ASSEMBLYMAN MAC BRIDE: Did he retain the 3,000 dollars?

MR. DEAN: No, he never got it.

ASSEMBLYMAN MAC BRIDE: In other words, even that 3,000 dollars went to Texas also?

MR. DEAN: He didn't get it. You see the money all went to Texas and then the total 150,000 went to Texas. And then he was supposed to get his payroll checks and his electric light check, his telephone bill, all of it had to come back from Texas. That was what he was given to operate on, but his bills had to be paid from Texas.

ASSEMBLYMAN MAC BRIDE: I see, thank you.

CHAIRMAN BIDDICK: Mr. Z'berg.

ASSEMBLYMAN Z'BERG: Mr. Dean, I am interested in where this money went in Texas and you say you don't know. Now, you have been to Texas?

MR. DEAN: Yes.

ASSEMBLYMAN Z'BERG: And are the law enforcement agencies down there, have they offered at all to help in this problem?

MR. DEAN: Well, they have been of very great reluctance, I don't know why the reluctance. Some of this money is supposed to have gone into the banking business in Louisiana, some went into other enterprises.

ASSEMBLYMAN Z'BERG: You could probably trace the money to a bank some place in Texas?

MR. DEAN: In Texas, yes.

ASSEMBLYMAN Z'BERG: And then that bank, somebody has an account in that bank and so you would know who that is, it would be either a corporation or a single individual and have you found that out?

MR. DEAN: Well, we haven't found that out because that's what we are relying on the F.B.I. for to get that information for us. Not only did we ask that F.B.I., but the Trustee, McClelland Wallace, who is the Trustee under the Section Ten Bankruptcy, also asked the F.B.I. to come into it after he got into it and saw what the situation was.

ASSEMBLYMAN Z'BERG: I assume that if the F.B.I. finds out who has that account, they could interrogate that man themselves or before a Federal Grand Jury, I suppose, and find out what that man did with the money. It would take a while but do you foresee any reason why the F.B.I. or the Treasury Department won't ultimately be able to determine who got money?

MR. DEAN: I don't think so. I think they should do it ultimately. As a matter of fact, we have contacts in San Francisco from the F.B.I. and as soon as they get the information, they said they would notify us immediately.

ASSEMBLYMAN Z'BERG: And they are working on that right now?

MR. DEAN: Yes, they are.

CHAIRMAN BIDDICK: Question, Mr. Willson?

ASSEMBLYMAN WILLSON: Yes, I was going to ask Mr. Dean, do you have any recommendations, this is a Civil Committee, but I wondered if you had any recommendations as far as fraud was concerned as a result of this case on the criminal side of the law, new legislation?

MR. DEAN: Well, it's very difficult on new legislation, as you know. There is always a tendency to say new legislation when something like this comes up, but I think at least from the point of view we have in San Francisco, it could be handled under our present law.

CHAIRMAN BIDDICK: You are speaking of the criminal?

MR. DEAN: The criminal aspect of it. We can handle it on the present law, but when you get on a State-wide basis, then you get into a little different situation because we have a question of jurisdiction.

After they move from San Francisco down to San Mateo, they are out of our jurisdiction as far as prosecuting anything that happens down there, but at the same time we don't like to be in the position of doing something which would stifle or injure legitimate businesses. I think that we have the laws sufficient now as far as grand theft, embezzlement and taking money by trick and device to handle such a situation as this.

ASSEMBLYMAN WILLSON: Thank you, Mr. Dean. I'd like to ask you, do you have an opinion at all on possible Legislative limitations of these life contracts and 10 year contracts, do you have any thoughts along that line.

MR. DEAN: Well, I've been thinking about that since I talked with Mr. Jewel about it and several times, every time I come up with it I always think of this, well now where are we going to stop so we don't hit these private individuals with legitimate businesses. That's the difficult point so that you don't injure somebody that's doing a good job, an honest job, and we don't want to hurt them. That's the problem we run into immediately.

CHAIRMAN BIDDICK: I don't know if you have seen a copy of our preliminary background report, but if you do have any comments on the various proposals in there, based upon your experience that you want to submit later in writing, you may do so, we would be very happy to have them.

MR. DEAN: Thank you.

CHAIRMAN BIDDICK: I might ask this one question, Mr. Dean. Did you go to the background of these people that were operating the American Health Studios before they came here? Had they done anything like this before they arrived in San Francisco?

MR. DEAN: Well, other than the background information

on Alan Stephan, all we know from talking to various individuals, they had no criminal records. Alan Stephan was a former Mr. America in Chicago and then he went to Minneapolis in 1946 and he had a couple of studios on Hennepin Avenue in Minneapolis and approximately in May of 1956 he met Ray Wilson there and they went into this partnership agreement as far as American Health Studios is concerned and then they came to San Francisco in October, 1956, and the first studio was in San Jose and then the second studio was in San Francisco at 48 Golden Gate Avenue.

Now, those studios were going studios which they took over, letting the manager who was operating that studio come in at a salary at say a year's contract and a bonus.

Now, Ray Wilson, the originator of American Health, is only 32 years now. He was the originator; he started about 1953, he was a one time wrestler. He started in Salt Lake in 1953 and expanded, then he went to Phoenix; he was back east for a while and it's only in the last three years that he went down to Houston where their main office is.

Apparently, from the people I talked to, this health studio business of which there is an apparent need, from the people I have talked to, they like it. They had no complaint about the service itself, as long as they were getting it, and they would have continued if the studios were open. The money was coming in -- it was just poor management.

When I say poor management, I will give you a good example in closing. This was told to me by several studio managers about what they call hot checks.

They didn't number their cards they gave out if you came in and got a life membership at the A Studio. So you came in and gave 500 dollars cash for a life membership -- and a life membership can go from either 25 dollars to 500 dollars, it's just according to how fast you could talk. If you could talk long enough you could get it down to 25, but it started at 500. So you'd give 500 dollars to them and they'd give you a card. A little box of cards is all they kept.

Then an individual would write out a check for 500 dollars payable to American Health Studios giving a phony name

and he would pocket the 500 dollars. He would send the check through to Houston. The check would bounce, naturally.

When it would come back to the studio, the manager would then refer the letter back to Houston stating that John Smith who wrote that check could not be located again and that they had discontinued his membership and therefore write off the account. There was 500 dollars in the pocket of one of the studios.

Now, up to what extent that happened, I don't know, but there were too many loopholes in the administration.

CHAIRMAN BIDDICK: Mr. Sumner.

ASSEMBLYMAN SUMNER: In talking to the different operators from the local level, the manager, did you get the idea apparently from this illustration they were more or less acting in concert although they maybe had a scheme of their own? Did you feel that they were in a fast operation or in a fraudulent operation, or were they in most parts legitimate people who had a pretty good job and a pretty good thing going?

MR. DEAN: I think in most part that they had a pretty good job and a pretty good thing going if it were managed properly in setting it up, because most of them were interested in that field. Either they had been physical education majors in college or they had grown up in the gymnasium field or in the health field or something.

ASSEMBLYMAN SUMNER: So the individual managers weren't really part of the over-all scheme, if it was such, to close up the operation once they made some money out of it?

MR. DEAN: No, I don't think so. I think more or less the promoters down in Los Angeles had more to do with it than anybody else. No, I don't think the individual studio managers had anything to do with it or the assistant studio managers.

CHAIRMAN BIDDICK: Mr. MacBride.

ASSEMBLYMAN MAC BRIDE: I am just curious to know whether you have gone into Slenderella at all or not? Would that be within the purview of your investigation?

MR. DEAN: It would be if we had any complaints. We have had no complaints on Slenderella, as far as Slenderella Studios operating in San Francisco are concerned.

ASSEMBLYMAN MAC BRIDE: Is it operating in San Francisco?

MR. DEAN: I don't know whether we have any operating there at the present time or not. I'd hesitate to say. I don't think we do. We may, but I doubt it.

ASSEMBLYMAN MAC BRIDE: Well, Slenderella is in the hands of the receivership. Are we going to get into that, Mr. Biddick?

CHAIRMAN BIDDICK: Well, Mr. Tanner who made an investigation on this will be able to tell us a little bit about that. We have tried to cover everything. We don't have witnesses to cover all of these, but we have tried to get a general picture of what has happened State-wide.

MR. DEAN: If there is anything else we can do for you, why don't hesitate to tell us.

CHAIRMAN BIDDICK: All right, thank you very much, Mr. Dean. During the Noon hour I was handed a telegram which was addressed to Attorney General Mosk, it was in care of the City Council Chambers, City Hall in care of the Committee Secretary. And it says "we are heartily in accord of eliminating mal-practices in the dance instruction field and are at your disposal if we can be of service. Signed Frank and Veloz, Veloz and Yolanda.. Crossroads of the World." I guess that must be Southern California.

ASSEMBLYMAN MAC BRIDE: That's the site of the new State Fair.

CHAIRMAN BIDDICK: Is anybody here present from Veloz and Yolanda? I might say that we certainly tried to get in touch with all people operating in this field for whom this is a business and anybody who calls us we encourage them to attend and participate; encourage them to make a statement.

A telegram such as this is a nice gesture, but we'd like to see the people here; we would like to have statements from them. The thing that we could ask these people to do that would indicate a willingness is to be here and participate in the hearing, so I think that that is the answer to that. We would have appreciated it if they had come.

Just out of curiosity and so that we have an idea of how many people here are active in the various fields, how many people here are either attorneys or operators and representing dance studios in one way or another? We have about 10, thank you. And then, how many here are representing in one way or another the health studios? There are about 4. Well, of course, we will give you an opportunity, and we are going to hear some this afternoon. Representatives of Arthur Murray. We would, of course, be very glad to hear from your people at any time. If you don't feel you are prepared to testify now, we'd be glad to have a letter.

If you are not familiar with the way a Legislative Committee works, we are not going to make any decisions here during this meeting. We are collecting testimony. We have to do some background work before we could even have an intelligent hearing.

Later on there will be a report and this report will be submitted to the Committee, the entire Committee, and we will try to get the Committee's approval for whatever we decide to recommend. This recommendation will be made to the Legislature for 1961 and if there are some recommendations for Legislation, they will be introduced to the 1961 Session. The Legislature would not in all probability be meeting for the balance of this year unless there was some emergency. Certainly they would not be meeting for general Legislation such as this. So for those of you who may be curious, that is our procedure. We are going to make a report at some later date and there will probably be some Legislation introduced at the '61 Session if the report recommends it.

Now, we have Mr. W. B. Gustaveson who is the Assistant District Attorney from Riverside County. We will be glad to hear from him at this time.

MR. GUSTAVESON: My name is Willis B. Gustaveson, Assistant District Attorney, Riverside County. Well, for the last 14 years, we have been in charge of making all fraud investigations in Riverside County because we didn't have a Better Business Bureau at that time so we have a lot of better business material. We have one now in Riverside and San Bernardino Counties. So while the load has been shifted, it is nonetheless pretty aggravating.

About 4 years ago, I was requested by the Lions Club to make a talk on the subject of fraud and I worked out a talk called "Don't be a Sucker" which I gave before a number of service clubs and about a year later this Arthur Murray Studio and the American Health Institute began to cause us a lot of complaints, so I added those two to the talk, and that made it a big success.

I have talked in San Bernardino, Orange County and Riverside and Los Angeles County at least once a week and I am booked up now until August. The big punch is this Arthur Murray Studios because the people are shocked when they hear about these life time contracts sold to these people who are 70 and 75 years of age.

In one situation there I asked a woman, how many lessons do you take a week and she said one lesson a week is about all I can stand. How much did you pay, I said? And she told me. I says, do you mind telling me your age, and she says no. She told it to me. And I figured out that the woman would be 104 years of age before she would be able to finish out that contract and she wasn't in the best of health at the time.

Now, when you talk to people, as we say, the grass roots people in the community and they are just shocked about this and a long time ago I concluded there must be some form of Legislation and I prepared this Bill here that Lee Backstrand introduced before the Legislature, only I had it more broad than he has it here.

CHAIRMAN BIDDICK: I might say that this is the Bill that I mentioned this morning and this Bill was introduced and was actually formally referred to this Committee for study.

MR. GUSTAVESON: That's right. Well, at the time I talked to Iee Backstrand about it, I had talked a couple of weeks before to the Palm Springs Rotary Club, which in the Wintertime has all the millionaires from New York and New Jersey and Chicago on it and at that time the Arthur Murray articles were in the Saturday Evening Post and one of the associates, a Mr. Hicks was there from the Saturday Evening Post and he was shocked at some of the allegations I made and I showed him the letters and I showed him the newspaper articles here about the Arthur Murray Studios. And he said he was going to take it up with Mr. Hicks who was the editor of the Saturday Evening Post. Whether he did or not, I don't know.

But the men down there, they were a group of wealthy people throughout the United States that come down to Palm Springs and help make up these Rotary Club Meetings.

So I then contacted Backstrand, (I was up here in Sacramento on some other Legislation which I introduced in the criminal field) and we prepared this bill. I had it more broad than it is here.

We went to the Legislative Counsel with it, and it was emasculated to say the least. And the theory is, as one of the men said this morning, you can't stop people from spending money. If they want to throw it away or burn it up why that's their right and their privilege. Even this Bill here the Assistant Legislative Counsel told me he thought was unconstitutional.

So I discussed the matter with Mr. O'Brien of the Attorney General's Office and he said that he thought that maybe the only way to correct this situation would be in the licensing of these various types of businesses.

I might say now that one of the gentlemen just mentioned that we can't afford to hit the little fellow. There are a great many honest dance studios. We have them in Riverside County, a great many honest gymnasiums. We don't want to put them out of business, but it's these chains that give us a lot of trouble and I will except the Veloz and Yolanda Studio because we have never had complaints from them and they are right across the street from the District Attorney's Office.

Well, at the time that this broke about Arthur Murray I had the manager in. It seems that a woman had signed and agreed to pay 8,000 dollars and drew 5,000 dollars out of the joint account from the bank unknown to her husband and when he found out about it the roof went off of the house and he eventually ended up in my office and it was my first knowledge about these so-called lifetime contracts.

So I called this manager in and he told me that these operators are franchise dealers. Riverside County has two of them and he runs Riverside County, he is also Director of the Los Angeles organization. He told me he paid 55,000 dollars for the franchise so he was on his own, whatever he makes, he is on his own. I said to him, well now, the thing that worries me is this. Supposing I signed up for a contract for 10,000 dollars and then a week later I lost my legs in an automobile accident, what happens to my 10,000 dollars. He says it's gone. I says, supposing my wife signs up and pays the 10 or 12,000 dollars and then she has polio and she can never walk let alone dance again. He says "it's down the sewer, gone." So I says supposing we had a depression and you go broke because you are running a luxury organization, what happens to my 12,000 dollars? Well he said, we send 15 percent back to Kansas City in a trust fund, 15 percent. He was honest about it.

As I say, it was useless to try to work out anything with him on these lifetime contracts, so I have done my best to try to keep people from investing their money.

We had a call from the bank one day, a lady called up and said the manager was down there with a 12,000 dollar contract and some old woman wanted to cash in her defense bonds, that she has had since the war. I told her that as far as I was concerned to keep her defense bonds, so as far as I know he has still got the contract which has not been paid.

Now, one thing more, I want to say something about these contracts. In the District Attorney's Office we are interested in the prevention of crime. Not only the prosecution of people, but the preventing of crime and this is the situation. When people buy groceries or run up a medical bill or even in the case where they buy a water softener or a set of encyclopedias and they sign this conditional sales contract and

they are sued by the corporation or they are sued by a collection agency, they know they have got something. They have it in their hands, they have got the groceries, they have used it, they have been to the doctor, he has operated. And in the case of the water softener, they have it, or the case of the encyclopedias, sometimes they want to give that back. But in these lifetime contracts where they sign a contract and agree to pay all this amount of money and then they don't get anything and then they are sued, that is something they don't understand.

And also in these health studios, one woman signed up with an organization that is up the street here, I think it was 240 dollars, something like that and the next day her doctor says why you have hypertension, and she doctor says well, lady, you should never have walked into one of those studios, and so what happened. She's got this money and they won't give it back, she comes to me and I couldn't do anything about it, she paid. I told her she should have had a medical examination first.

So those kind of people that are -- I tell them all to have a medical examination. Also for the dance studios and the health studios.

Now, if these people, and to give you an example, this is a small sample. This health studio sold a contract for 120 dollars to a Mexican track walker on the Santa Fe Railroad who had 9 kids and he didn't pay any money and he never took a lesson so they went ahead and filed an action against him for 10 dollars and were garnishing his wages when the Santa Fe called me. I called Rex Dunn in Los Angeles who was the big operator at that time and we got that quashed. Imagine that, bringing an action against a Mexican track walker, selling a contract to a man who had 9 kids and going to file an action against him and going to garnishee his wages, which I don't think they could do. We could get him a release. I don't think these lessons are subject to attachment anyway.

But that's the way they operate. Mr. Dean explained it to you. I could say a lot more about how they operated. It was a fraud and a delusion from the beginning.

CHAIRMAN BIDDICK: Mr. MacBride.

ASSEMBLYMAN MAC BRIDE: Where did you consider that operation to be a fraud? This man signed up for these treatments. The mere fact that he was a track walker and had 9 children had nothing to do with the effectiveness of the contract.

MR. GUSTAVESON: In the first place he couldn't read English.

ASSEMBLYMAN MAC BRIDE: Well, assuming that someone explained to him so that he knew what he had signed?

MR. GUSTAVESON: They told him in this particular case, Mr. Mac Bride, and they told other people too, when you came in this particular day and they couldn't sign you to a contract, one of the things they said, well we get paid for everybody that comes into this office and if you sign this paper that you came in today we can get our money. So he didn't know what he signed. That's one of the angles.

ASSEMBLYMAN MAC BRIDE: Wait a minute. All right, that's obviously fraudulent. The point that the Committee mainly may be interested in is, in your opinion, is there anything fraudulent about a person, let's say that he can speak English and can read, write and do all of the things that he is supposed to do. He looks at the contract and signs up for 10 lessons in the future and obligates himself to pay 120 dollars for 10 lessons or whatever it might happen to be. Now, in your opinion, is there anything fraudulent about such a transaction?

MR. GUSTAVESON: No, Mr. MacBride, it's commonly done and I am not opposed to it. It's what we call the buyer's remorse the next day, it's not an original case. Another racket they worked down there, was they had a wife down there, maybe she would come in with some other lady and they tried to sell her and she said well, I want to talk it over with my husband. All right, here is the credit reference, we might as well start going on this credit reference. So she signed the credit reference with a carbon copy under there and she signed a contract and she was stuck there.

CHAIRMAN BIDDICK: Mr. Z'berg.

ASSEMBLYMAN Z'BERG: I wonder if I could ask a question

of our experts or somebody about the measure of damages on these contracts. I know we have been saying here that if you don't pay this 240 dollar contract and you don't receive anything, then I am gathering that perhaps the Court might give judgement against you for 240. Can our expert tell us what the measure of damages are?

CHAIRMAN BIDDICK: We don't have any single expert, but we have Mr. Tanner who has been investigating the factual background, we have Mr. Coomes from the Legislative Counsel's Office who has been writing some Legislation for this. I don't know, Joe, whether you would have anything, or Tom, either of you have examined these contracts to know what the situation is as far as remedies are concerned. Or do you want to rephrase your question?

ASSEMBLYMAN Z'BERG: Well, one of the things, as I understand it, we are trying to find out is what Legislation can we enact. Now, if the law today is that if you signed a contract for 8,000 dollars and you get polio tomorrow, you'll have to pay 8,000 dollars, I think that's terrible. We should change that. But if the law is that you don't have to pay, pay any money if you have polio, then I'd like to know that, so we don't get into that.

CHAIRMAN BIDDICK: We just briefly outlined, we are going to hear the outline of our Legislative proposals. Number one was licensing which I think we agree is sort of a last resort. Number two is some form of a permit under the Corporations Commissioner for a certain sum or a certain length or term of contract so that in effect when they are financing the business, it should come under the approval of the Corporations Commissioner.

As for the third, really there are two types. One would be to write certain provisions in the law that must be incorporated in these contracts and make certain provision for things that could not be included in the contract.

Now, we could, I assume, cover that situation by providing that these could not be non-cancellable in the event of illhealth or death, something like that -- that they must be cancellable in the event that the people could not benefit from them by virtue of inability or by physical condition or because

of death.

Now, we also have the alternate suggestion, just to cover the whole field, that we could amend this into the Unruh Act on conditional sales. That would be a possibility too. This is what New York has done and we will hear in time also from some of the people from Stanford University who have been making a nationwide survey. This is not just a local problem in California.

That's why I was so desirous of encouraging these industry people to come here -- because this is not an isolated situation and the hearing was not called here in Stockton merely because of the fact that we had a complaint or two here in Stockton, although I have a file in my own office on health studio complaints that I have been collecting for 2 years and I have advised a certain health studio of this fact. And they know of it and there were some aggravated situations that were over-reaching. But we are not coming here because of that fact, but because I have been aware of this and because we wanted to have a State-wide hearing and Stockton was one area along with others and we came here, not to single out Stockton, but because there was an interest in this community.

ASSEMBLYMAN Z'BERG: Do we know what the measure of damages are now on these contracts so that we know what legislation might have to be enacted?

CHAIRMAN BIDDICK: John, do you want to answer that?

MR. INGRO: Maybe the answer to your question would be this. The Committee agrees that there are negotiable instruments involved; therefore, Arthur Murray Dance Studio or the health studio isn't doing the suing but the collection agency or the finance company is making the demand; therefore, it's for the full contract amount and their defenses are no good. This is one of the big problems.

CHAIRMAN BIDDICK: One of the suggestions is that we make a negotiable instrument, that we provide that a negotiable instrument cannot be accepted in these dealings.

ASSEMBLYMAN Z'BERG: Well, apart from the negotiable

instrument or the contract itself, would there be a defense then if the lady got polio after she signed up for 8,000 dollars?

MR. INGRO: I don't think so.

CHAIRMAN BIDDICK: Mr. Tanner.

MR. TANNER: I know of contracts that have been sold to finance companies who tried to collect on the contracts. If they were unsuccessful they then sell these contracts to the collection agencies which will then start their dunning process. There are even cases cited in the San Diego area where a studio of a national organization closed up due to the losing of the franchise where contracts were then sold, some contracts were as old as 2 years, had been sold to the collection agency.

Many of these people were under the impression that these contracts had been cancelled for over 2 years. There were some instances in a situation where some people claimed they had never signed a contract with this organization but then after the studio closes, probably 6 to 8 months later, they start receiving duns from a collection agency, lots of people probably paid.

A number of them, approximately 65 went to one attorney in San Diego and most of them got off, although there has been 1 or 2 cases filed by the collection agency.

CHAIRMAN BIDDICK: Mr. Gustaveson, we kind of took over for a while, did you complete your remarks?

MR. GUSTAVESON: No, I have some more.

CHAIRMAN BIDDICK: Go right ahead.

MR. GUSTAVESON: There is no question but what these types of lifetime contracts and these, both by the health studios and by the dance studios, have created a great deal of civil litigation. Our records in the Municipal Courts show a great many law suits being filed. You are not supposed to encourage the filing of any type of litigation but I am not interested so much in that as I am interested in the criminal case.

Now let's see what happens here. A woman goes down and signs up for one of these lifetime contracts and a week later her passbook comes through the mail and her husband gets ahold of it and he goes in and they have a fight and he beats the devil out of her and she is in our office for an assault and battery complaint. That's one of the cases that's happening.

Another situation is in this case here you had in Stockton in 1955, this Harvey Lucas case which created quite a bit of publicity. Arthur Murray sued the estate for 8,000 dollars after Lucas had died. There was a cross complaint filed and Mr. Parkinson the Attorney told me, that represented the estate, that there were a number of N.S. checks in here and also that this man Lucas had stolen a great deal of this money from his mother to take care of these contracts.

Well there you have 2 crimes and therefore it looks something like narcotics. Now narcotics is bad enough in itself, but what the people do to get the narcotics, they steal and they commit robberies and so forth because they want to get the money.

Now, last Sunday's paper said, and this is from Thompsonville, Connecticut, it says, "Thomas P. Clifford, Jr., 24 of Thompsonville, was arrested by the F. B. I. yesterday after Federal Bank Examiners found the accounts short. A teller since 1955, he stepped up to Assistant Secretary last December. One of the disclosures he made when the bubble burst was he had spent 15,000 dollars for a lifetime of dancing contracts."

Well, look what they do. They are hounded by their creditors and so they feel to get the money to continue on, either to prevent prosecution, civil prosecution, or else too, because they enjoy dancing and they want to go ahead and continue on.

Now, that's one reason we are interested in this is because of the increase in crime; at least the financial crimes. They issue bad checks many times they have been required by some of these health studios to issue checks -- many times when they couldn't pay the money and were told at the time the check wasn't any good and they were used to browbeat these people and they will say, well, we will take it up with the District Attorney's Office, of course, which they never did because they would be a post dated

check, as far as we are concerned.

And some of these contracts have been negotiated with minors and the parents are contacted and they are threatened with suits against these minors. Well, of course, a contract against a minor is a voidable contract and it has to be an action brought to void the same, which can be done, but apparently they just don't know that and they are worried about being sued on some of these minor's contracts.

They call us and we tell them what the law is and then these outfits pull their horns in. But they have signed up a great many minors in these cases and I will tell you this much here, as far as the District Attorney's Office is concerned, those of you who may have worked in the District Attorney's Office know it has to be a pretty bad case before it comes to our office. We feel in some of these rackets here, out of 5 people, victims, only 1 person comes into the District Attorney's Office. They go to the Chamber of Commerce or the Better Business Bureau and various other places, their own attorneys, before they come in our office, so we just multiply this by the number of people that actually come in and we have quite an extensive file.

Mr. Tanner was down in our office and he acquired a great deal of information in the file--on these two particular fields, that is the dance studios and also the chain gymnasiums.

Now, I know that there is fraud in that American Health Studio, those contracts were sold down there to a firm in Los Angeles who went out and tried to get people to pay 10 dollars or more to insure a new lifetime, and a number of people did it, and then they finally went broke.

And in one situation down there they were suing a boy in Riverside and said he had to go to Van Nuys where the last gym was to take his lessons. Well, obviously he can't spend an hour and a half going to a gym over in Van Nuys. So the whole thing was a fraud to begin with as far as I'm concerned and I think legislation should be recommended by this Committee to the Legislature to prevent anything like this in the future.

These things mushroom, they spring up over night and something should be done to put it on the books even though the

American Health Studios is now out of business.

There are a great many local gymnasium that we have had no trouble with.

Now, what is the solution to this? Well, Mr. Sobieski this morning had a good idea and this would take care of the local gyms. Provide that contracts of let's say 6 months duration, it's not necessary for people who operate those kind of studios to be licensed. A great many local studios sign you up for 3 months or 6 months or provide for 500 dollars, a 500 dollar contract is the maximum that a local gym could use without getting a permit, but if you wanted to go into this big 12,000, 20 and 30,000 dollar lifetime contracts, if you wanted to run them over a period of years, 5 or 6 or 10 years, then they should be licensed. That would protect the little fellow. That would not affect the local gymnasiums on the theory that they keep people coming in for maybe 3 to 6 months. That's one of the things.

Now, New York ---- at the time that Bill was introduced in New York, in March of 1959, when they sold that 20, 000 dollar contract to the 79 year old woman who had diabetes, that caused the legislators in New York a great deal of trouble and right away the Bill was introduced. Now, it's coming up again in 1961 because it got through the one House but it didn't, as I understand it, get a third reading in the other House, but I think eventually that Bill will be passed. And I think that legislation in this State should be modeled somewhat after the one in New York. At least as far as the contracts are concerned and I am in favor of these so-called short-term contracts.

In other words, if they are honest and if they are going to stay in business, why don't they write a contract for a year with prior payment of say 1,000 dollars. If the people are still alive and able to and want to go ahead, they will sign up again for another 1,000 dollars or for another year. And not like some of these contracts, for 20 and 30,000 dollars and get the money in advance.

Now, I think, Mr. Chairman, that's about all I have at this time. I know all of the other people are here today to talk.

CHAIRMAN BIDDICK: We appreciate your coming very much, Mr. Gustaveson, and we know that you have had quite a background and familiarity with this problem. Any questions? Mr. Thelin.

ASSEMBLYMAN THELIN: You have stated that the Legislative Counsel had some doubts as to the Constitutionality of the Backstrand Bill. Would you briefly tell us what in that Bill might have come under the sanction of the Constitution?

MR. GUSTAVESON: Well, I will tell you the truth, at the time I went up to see him I got a lot of double talk on this. As a lawyer, I didn't understand it. He seemed to think, the Deputy that I talked to there, that this would be a very unusual type of contract, permitting the people to back out for a subsequent event.

In other words, you yourself could draw up a contract with Arthur Murray or any of these organizations providing that in the event you get polio or in the event I am physically unable to carry on with the terms of this contract I don't have to pay any more. You can do it, but can the State do it?

ASSEMBLYMAN THELIN: Do you mean that can the State come in and compel the parties to write that kind of contract?

MR. GUSTAVESON: That's right.

ASSEMBLYMAN THELIN: Of course, under contract law there is such a thing as a physical impossibility to perform.

MR. GUSTAVESON: That's right. Well, I think as far as I know, and I have been told, that in cases in which this has occurred and suit has been filed, that there has been a settlement made immediately by the dance studios.

CHAIRMAN BIDDICK: Mr. MacBride.

ASSEMBLYMAN MAC BRIDE: It seems to me it would be a question of whether we want to establish a public policy, in a sense created as a result of the unfortunate happenings that have taken place. I cite the examples that the gentlemen have demonstrated to us, that as a result of this, a public policy

is developing which would be adverse to the idea of permitting anyone to enter into a personal service contract for a great length of time into the future.

This would take some testing, there is no question about it, but I do think that the Legislature has the right to go into what can be considered public policy and possibly in view of the experiences that we have had in California, and I guess all over the Nation, that gradually public policy against this sort of thing is building up which could be the basis for restrictive Legislation such as you are discussing here.

CHAIRMAN BIDDICK: We had a rather interesting presentation this morning by Mr. Lloyd of the Federal Trade Commission who talked about this area and other areas too, prepaid service contracts, and they are attempting to get at it from the standpoint of high pressure tactics that are used and he mentioned a half a dozen different areas, but apparently there is a growing feeling throughout the Country that there is an overreaching and there is unfairness in some of these prepaid service contracts. There is a great deal of difference, as was pointed out by several witnesses this morning, as to the contract of the purchase of an automobile or an appliance or something of that sort and they also seem to be operating in an area where people are particularly susceptible to a concerted sales effort that we had testimony this morning of the type of sales pitch that is used.

We had one of the instructor's manuals that was read to us. So I'd say that there is a growing concern in this area.

ASSEMBLYMAN MAC BRIDE: Hair restorers is another area that they work on.

MR. GUSTAVESON: I might say, Mr. Biddick, I talked to an attorney, City Attorney of Palm Springs, told me that he was representing 3 school teachers down there against the Arthur Murray Studios who were paying over one-third of their salaries per month to the Arthur Murray Studios, and had been for some time. Now, it gets into your blood, I guess.

CHAIRMAN BIDDICK: That's where the teacher's minimum is going, I guess. I guess we will take about 5 minutes for the

reporter to stretch.

(Whereupon the Chairman recessed briefly at 3:00 P.M.)

CHAIRMAN BIDDICK: The Committee will come to order, please. We have with us Mr. Robert Betzenderfer, Deputy District Attorney from Contra Costa County.

MR. BETZENDERFER: I have brought with me Lee Gallamore, Detective Sergeant of Police, Martinez, who did the investigative work on the matter we had in Contra Costa County. This involved a health studio, sub-franchised from Jack La Lanne. Jack La Lanne lent his name to Georgia Paul in Oakland and Georgia Paul sublet the name to various people throughout Northern California, one of whom was Daniel Uhalde and he opened a studio in Antioch with Joe Lucas as the Manager. He opened the studio along about May of last year.

They apparently were in very good faith when they started because they signed a 10 year lease. Apparently there was no fraudulent intent to begin with because he signed a 10 year lease and I'm not sure there ever was any fraudulent intent on his part.

However, they did go out of business just last January. In the meantime he had sold a great deal of 3 year contracts, a great deal of 1 year, 6 months and so forth contracts, and they continued to sell these contracts right up until the day they went out of business.

Now, there is some dispute as to what happened when they went out of business. He contends that he had a verbal agreement with another studio in Antioch to take over his clients but no money had exchanged hands, there were no written agreements. Since that time, there has been a written agreement and the clients are now being taken care of.

One other thing I wanted to mention was the method of financing used. They used a Bankamericard. Bank of America put in a machine for applying for Bankamericards in the studio. Now, at the bank's request apparently, this Bankamericard just

concerned food supplements. Part of the basis of the contract in all of these cases was that they were to receive the services for the health studio and with it would receive a 3 months' supply of vitamins every 3 months. These vitamins are very interesting particularly because they do not have the name of the manufacturer any place on the box. I just discovered yesterday they are manufactured by Signet Laboratories in Los Angeles.

But these Bankamericards, I have an example here, one for Susie Sloan and it says, "food supplement 114 dollars." Now what this actually means is that Susie Sloan paid 114 dollars for a 3 year membership in the Jack La Lanne Health Studio but the only contract, the only evidence in writing Susie had outside of her card is this sales draft, Bankamericard which says food supplement 114 dollars and they misspelled supplement.

I would like to have Mr. Gallamore explain the other technicalities of the operation.

CHAIRMAN BIDDICK: Give us your full name, Mr. Gallamore, and the spelling, please?

MR. GALLAMORE: Lee Gallamore, G-a-l-l-a-m-o-r-e, Detective Sergeant, Check and Fraud detail, Sheriff's Office, Contra Costa County, Martinez.

Unfortunately this peat lime works on my hay fever so I am having a little difficulty. The operation in our County was a health studio, was a Jack LaLanne Figure Salon, L-a-L-a-n-n-e, opened in Antioch, owner Dan Uhalde; General Manager Joe Lucas. They operated for approximately 6 to 8 months, signed up approximately 300 members, merged with what is known as the California Health Studios, owned and operated by Don Kellogg, K-e-l-l-o-g-g. The reason I mention these names, Uhalde, Lucas, Kellogg, they are all former officers, members or employees of the American Health Studios, Inc. which Mr. Dean just elaborated on. I don't think I have to go into their operation, they are all former employees of that organization.

They had trouble with their employees in our operation. Their employees complained to the Labor Commission. Long hours, very little pay, some did not receive their salaries. The method of recruiting, they had to rely on the telephone because our local newspapers turned down their want-ad because of the particular kind of advertisement that they desired to use. The phone operation was, one of their employees would call a local number, ask for the lady of the house, eventually the lady of the house would be on the line, the conversation would be, "if you can give us the location of the Jack LaLanne Health Figure Salon in Antioch we will give you 6 free lessons", and if the lady came up with the right answer they would go ahead and further state, "for each and every individual that you bring into the studio with you, we will give you 2 additional free lessons."

Consequently that was the basic way of recruiting in members and as the people went into the studios on these free lessons, they were interviewed in a room with no one present but the person doing the interview and the prospective member.

They were promised almost everything including the moon. Certainly many things that could not be fulfilled by the studio. However, there is this difference in these statements....

ASSEMBLYMAN MAC BRIDE: Did they get the 6 free

lessons?

MR. GALLAMORE: Oh, yes.

ASSEMBLYMAN MAC BRIDE: Were there any strings attached to their getting the 6 free lessons?

MR. GALLAMORE: No strings whatsoever.

ASSEMBLYMAN MAC BRIDE: They could start immediately in the performance of the free lessons?

MR. GALLAMORE: Eventually during some time of these 6 free lessons they were signed up as a member for anywhere from 6 months, 1 year, 3 years and lifetime membership fees ranging anywhere from 50 dollars to 150 dollars.

ASSEMBLYMAN MAC BRIDE: My point is, though, Mr. Detective, that there was nothing fraudulent about the representation made over the telephone on the solicitation bringing them in or the performance of the promise on the part of the health studio?

MR. GALLAMORE: No.

ASSEMBLYMAN MAC BRIDE: Thank you.

MR. GALLAMORE: I personally interviewed about 60 women who represent a group of about 300 that were victims in our operation. They appeared at the District Attorney's Office and I interviewed each and every one of them with the assistance of the District Attorney's Office.

Unfortunately after an intensive investigation we realized that we could not prove any type of fraud in the Superior Court. That there was evidence of misrepresentation, but we had no way to prove it.

Now, our current problem at the present time, Mr. Dan Uhalde is operating a health studio called the Swim & Trim in the San Pablo Area of our County. Mr. Joe Lucas is now operating a health studio called the Concord Health Studio in Concord. Our problem is how are we going to police these two new health

studios? I have a complete report that I would be glad to submit to the Committee. I'd be glad to answer any questions. We also have one member who is a spokesman for the group that appeared in the District Attorney's Office who is a victim of this operation, if you'd like to hear her testimony, she is here.

CHAIRMAN BIDDICK: We had some background information here. Apparently also one of the people that is now at this new Jack La Lanne Studio over there was also active here in Stockton in American Health Studios.

MR. GALLAMORE: That's right, Mr. Joe Lucas. He was a former manager of the American Health Studio, Inc., Stockton.

CHAIRMAN BIDDICK: Well, I mean it's very interesting to me that the pattern repeats itself. This is quite significant, I think.

MR. GALLAMORE: That's the only thing that I have been able to develop in my investigation is that these particular individuals have set a pattern over the years, 3, 4 years and they repeat themselves in each and every operation.

CHAIRMAN BIDDICK: Would the Committee like to hear this lady who is the spokesman for the victims? Mr. Z'berg.

ASSEMBLYMAN Z'BERG: Now, these people that went in the day before or the day the outfit went under and signed the Bankamericard for how much it was. Were they compelled to pay the Bank of America or did they have any recourse against the bank for their money back out of their account?

MR. HETZENDERFER: Well, by the time the Jack La Lanne Studio closed in Antioch, the Bank of America had withdrawn its support. In fact they were no longer doing any financing through the Bank of America. This is one of the reasons that he had to close because nobody would finance them anymore. They tried one other outfit but the other outfit insisted it would have to be a certain length of time between signing the contract and the time it became effective. In other words, it would be a period when the customer could withdraw.

Now, this was not at all satisfactory to the studio.

Consequently, at the time they closed they had no financial backing and they were carrying their own papers. There were 4, I think, who signed up on the last day of business. The day they sent out the notice of the prospective merger, 2 of the 4 were notified that there would be a merger, the other 2 were not notified. The 2 that were notified, the money was sent to the new health studio.

ASSEMBLYMAN Z'BERG: Well, of the 2 that were notified, did they pay their money at the time they signed up?

MR. BETZENDERFER: I'm not certain of that, Lee, do you know?

MR. GALLAMORE: I think they paid a partial payment.

ASSEMBLYMAN Z'BERG: Well, what I'm getting at is this, these people paid the money and then the outfit went under, they didn't get their services?

MR. BETZENDERFER: They still must pay the Bank of America and they are paying.

ASSEMBLYMAN Z'BERG: I see. Would you feel that if in the service type agreement, that the law was that the person who was to receive these services could set up their defense, any personal defense, they might have, against the assignee, we'll say, of the health studios, that this would take care of most of the complaints that you received?

MR. BETZENDERFER: Probably most of them, but I would much prefer to see the prepaying part of it eliminated. I see no reason for prepayment on a 3 year contract. It seems to me that a pay-as-you-go plan is much more efficient. When you haven't got a pay-as-you-go plan, if the whole 3 years is paid for in advance, then the services start to fall off, the people are not interested in serving them anymore because they have the money.

ASSEMBLYMAN Z'BERG: Thank you.

CHAIRMAN BIDDICK: Now, the name of this lady is what?

MR. GALLAMORE: Mrs. Melvina Meeks.

CHAIRMAN BIDDICK: All right. Maybe one of you could move over and have her sit right at the center. Mrs. Meeks, would you come forward, please?

CHAIRMAN BIDDICK: Would you state your name, please?

MRS. MEEKS: Melvina Meeks.

CHAIRMAN BIDDICK: M-e-e-k-s?

MRS. MEEKS: Yes.

CHAIRMAN BIDDICK: Perhaps you could just tell us about your experience, if that's what you had in mind. Probably it's typical of those others that you represented?

MRS. MEEKS: Yes. Right now I'm scared.

CHAIRMAN BIDDICK: That's all right. This is very informal, so take your time.

MRS. MEEKS: We saw the ad in the paper of Jack La Lanne Studio opening up in Antioch, so my sister and I went down to see what it was like and this Mr. Jim Heath said that he was going to be the manager and that they would be open for 10 years. And that they were taking, giving special offers for any of the first 23 that joined and he said that I happened to be about 6th or something like that to join. So I said okay, I'd be glad to join. And so he said, he gave me the contract and I read it and it sounded good.

So I signed this contract and I paid him 10 dollars down and then I was to pay the remainder of the 150 monthly. Well, then after I had started going, I went for about 3 months, they came to me and they said that they needed more equipment and that if I would go ahead and pay the remainder they would buy the extra equipment that they needed. So I told them I didn't have the cash right then to go ahead and pay. So he talked me into writing out a check and I told him I didn't have a checking account.

He said, "well, you can put the money in the bank later," so I said, "no, I don't like to do things like that, it's against the law to write a blank check that way." So he said, "well, this is the last day of the offer, if you don't get in on it today, you will then miss out on the 30 dollars discount." So I says, "well, I'll go up and talk to my husband about it",

and he says, "no, we don't want you to talk to him about it, go ahead and write out the check, we'll hold it until you get the money in the bank." So I did. And I went up and put the money in the bank to cover it a couple days later. Then they sent the check in when I told them the money was in the bank, but they wouldn't wait for the others. But they did get the extra equipment they said that they were going to get. So I thought well, it's all right. So we went ahead and we were very happy down there, all of us, until they merged with the other company.

Then the other company states that they didn't have a merger, so I told them, I says, "well, I'm going to my lawyer about it." I paid 150 dollars and I wanted what I paid for.

CHAIRMAN BIDDICK: What was the name of this other company that came in?

MRS. MEEKS: California Health Studio, wasn't it?

ASSEMBLYMAN SUMNER: How long was the original contract for?

MRS. MEEKS: Three years.

ASSEMBLYMAN SUMNER: Could you use it as long as you wanted to?

MRS. MEEKS: Yes, sir. 6 days a week anytime you wanted to come in. And so then we went down there and we weren't treated very nice and they told us that we were suckers in the first place to join up there, we should have joined down there.

CHAIRMAN BIDDICK: This was the same establishment, same building and all?

MRS. MEEKS: Yes, California Health Studios treated us rather rough. And so I told the girl, "I'm going down to contact my lawyer. You're not going to stand there and call me a sucker." I said, "I might be one but you're not going to tell me I'm one." So she says, "well, wait a minute I'll talk to the boss and see what we can do about this." Then oh, I went in 2 or 3 times. I went then and saw my lawyer and he said that he'd investigate it and so he did and I called him back and I said, "well, what

happened?" And he says, "well, I think if you go down there you will get satisfaction." So I went down with a couple other women and that was it. I went down there and talked to them and they said, "well, your 3 years has been accepted." So we went ahead and I went back to my lawyer and I told him and he says, "well go ahead and take the exercises, if that's what you want go ahead and take them." So I says okay, so we went back. And all the girls were told that their 3 years were accepted. They would accept up to a year, but no more than a year before I had went to my lawyer; so she told me, Helen was her name, told me that the 3 years was accepted.

So I said, "okay, that's good, we will come in." So then about oh, 2, 3 months after that they come in and they tells us that if we don't pay 24 dollars down and 5 dollars a month on a club basis we will have to get out.

Well, the girls balked about the 24 dollars so he said, "well, I'll tell you what I'll do. I'll dispense with the 24 dollars if you just pay the 5 dollars a month and a lot of the girls got together and got mad about it and so we walked out. That's about all I know about it.

CHAIRMAN BIDDICK: So you are not presently a member?

MRS. MEEKS: Well, they wrote up a new contract, Mr. Betzenderfer has the new contract.

CHAIRMAN BIDDICK: Did you sign that?

MRS. MEEKS: No, I didn't sign that, no.

MR. BETZENDERFER: This is a new contract between the now defunct Jack La Lanne Salon and the California Health Studio whereby California Health Studio will service the old members of the Jack La Lanne Studio. This has come about since we started our investigation.

MRS. MEEKS: Just in the last 3 weeks.

CHAIRMAN BIDDICK: Do you have any questions? Mr. Sumner.

ASSEMBLYMAN SUMNER: Yes. What facilities did they have for you?

MRS. MEEKS: I don't know the name of the equipment.

ASSEMBLYMAN SUMNER: I mean did they have bar bells and mirrors, and was there a swimming pool?

MRS. MEEKS: No.

ASSEMBLYMAN SUMNER: Was there an exercise room?

MRS. MEEKS: Yes, sir, and they had shower rooms and the heat room.

ASSEMBLYMAN SUMNER: Was there a steam room as well?

MRS. MEEKS: Well, no. The first time in Jack La Lanne Studios -- now, this is one thing I can't understand. The Jack La Lanne people that worked there always downed the steam room type of heat room and they recommended the dry heat. Then they merged with one that has the steam heat and we have to use what they say to use.

ASSEMBLYMAN SUMNER: So you used both the steam and the dry heat?

MRS. MEEKS: No, just the steam. There is no dry heat there. And in the contract it's stated dry heat.

ASSEMBLYMAN SUMNER: It amounted to 50 dollars a year?

MRS. MEEKS: Yes.

ASSEMBLYMAN SUMNER: At least in the original contract?

MRS. MEEKS: Yes.

ASSEMBLYMAN SUMNER: Did you pay extra for towels?

MRS. MEEKS: No, we brought our own.

ASSEMBLYMAN SUMNER: And did you have a locker there that

was a private locker?

MRS. MEEKS: No, sir, we paid 10 cents to put our purses in a safety box with 1 key to it.

ASSEMBLYMAN SUMNER: Well, where did you change?

MRS. MEEKS: In a little change room. They just had them partitioned off.

ASSEMBLYMAN SUMNER: And did you hang your clothes up on a hanger there?

MRS. MEEKS: Yes, or on a little rack.

ASSEMBLYMAN SUMNER: How many people did they have there approximately?

MRS. MEEKS: Well, any time I ever went in, they were crowded.

ASSEMBLYMAN SUMNER: I mean people who worked for the studio?

MRS. MEEKS: Oh well, from 2 to 3 people. Two stayed out in front and the 2 girls stayed out in back.

ASSEMBLYMAN SUMNER: Did they direct you in your exercises?

MRS. MEEKS: Yes.

ASSEMBLYMAN SUMNER: And did they have a regular course there that you were going through?

MRS. MEEKS: Yes.

CHAIRMAN BIDDICK: Would you all go through the same course of calisthenics then at the same time or not?

MRS. MEEKS: No, individual.

CHAIRMAN BIDDICK: They would just kind of move around

and direct you what to do?

MRS. MEEKS: Yes, told us how to do it and at the other studio when we got down to the other studio she kept saying you are doing it wrong, you are doing it wrong and then she wouldn't show us how to do it right.

CHAIRMAN BIDDICK: Well, you say the other studio.

MRS. MEEKS: Well, see, Jack LaLanne Studios is the one I've been talking about, the other studio is the California Health Studio.

CHAIRMAN BIDDICK: But they are in different locations?

MRS. MEEKS: Yes.

CHAIRMAN BIDDICK: I asked you that question once and I guess you didn't understand me. They were two separate establishments then?

MRS. MEEKS: Yes.

CHAIRMAN BIDDICK: Where were they located?

MRS. MEEKS: One was at 8th Street and the other was on 2nd Street.

ASSEMBLYMAN CARRELL: Where was that contract signed?

CHAIRMAN BIDDICK: That was the contract between the two studios.

MRS. MEEKS: There is a contract now, but there wasn't; they claimed.

CHAIRMAN BIDDICK: That's what Mr. Betzenderfer said.

MRS. MEEKS: Would you like to see the contract that they have got now?

ASSEMBLYMAN CARRELL: I don't care to see the contract now.

ASSEMBLYMAN MAC BRIDE: Madam, when they first signed you up on the initial contract were any misrepresentations made to you by the promoter of this deal which representations did not come true during the course of your being in the studio?

CHAIRMAN BIDDICK: They closed up.

ASSEMBLYMAN MAC BRIDE: Well, I know that, but aside from that were there any representations that -- I believe one of the 2 gentlemen that came with you said that they promised them the kitchen sink, the moon and everything else. Were there a lot of promises made to you that did not come true?

MRS. MEEKS: Well, they kept changing girls for one thing and I thought they should keep at least one girl there that knew what she was doing. And then another thing, they promised us the food supplement every 3 months and they didn't do that and a lot of the girls didn't get their first supplement. That was promised.

ASSEMBLYMAN MAC BRIDE: Well, did they make representations that they would reduce your weight down?

MRS. MEEKS: Oh, yes.

ASSEMBLYMAN MAC BRIDE: To a certain figure, or anything like that?

MRS. MEEKS: Yes, they did.

ASSEMBLYMAN MAC BRIDE: And when you were taking the courses and while they were furnishing these facilities, were you losing weight ?

MRS. MEEKS: Yes, sir.

ASSEMBLYMAN MAC BRIDE: In other words, from this standpoint they were accomplishing what they had promised you?

MRS. MEEKS: Surely, they put me on a diet and then the exercises too.

CHAIRMAN BIDDICK: Any questions? Mr. Sumner.

ASSEMBLYMAN SUMNER: Did you pay extra for the food supplement?

MRS. MEEKS: No, sir. They said the food supplement was in with the exercises, but we didn't receive but one box.

ASSEMBLYMAN SUMNER: Oh, you only received one box.

MRS. MEEKS: And there were a lot of girls that didn't receive that.

ASSEMBLYMAN SUMNER: And this was for how many months' supply in that box?

MRS. MEEKS: Three months. I asked them for another box and they told me that they were out of the supply. And then I do know that some of the girls that paid for vitamin pills got it from them.

ASSEMBLYMAN CARRELL: Were they supposed to get this food supplement indefinitely?

MRS. MEEKS: They were supposed to get it all during the term of the 3 years, yes. Every 3 months.

CHAIRMAN BIDDICK: Mr. Z'berg.

ASSEMBLYMAN Z'BERG: I want to ask you about these vitamin pills. Did they make any representations about these vitamin pills?

MRS. MEEKS: No, sir. They gave them to us, they said they were good for us and they was to keep us from getting hungry.

ASSEMBLYMAN Z'BERG: Well, did they tell you that they contained any certain vitamins, things like that?

MRS. MEEKS: Yes, one was supposed to be calcium, the other was supposed to be vitamins.

ASSEMBLYMAN Z'BERG: And do you know whether -- Mr. District Attorney, are those pills what they are purported to be, are they good vitamin pills?

MR. BETZENDERFER: We haven't had them analyzed, so I don't know. There is a purported list of the contents on the back of the box and it looks good.

ASSEMBLYMAN Z'BERG: Do you intend doing that, finding out what is in these things?

MR. BETZENDERFER: No, we have finished our investigation. I will leave this with the Committee, if the Committee desires to have them.

CHAIRMAN BIDDICK: We will give them to Mr. Z'berg.

MRS. MEEKS: It made one girl sick, don't do that.

CHAIRMAN BIDDICK: Mr. Ingro will follow up with that.

MR. INGRO: We contacted the Department of Health and they have been following these food supplements, they are setting up their program, but as far as they can tell, there are no misrepresentations on the label, but they don't know what they are saying to them. The labels themselves, they are not misrepresenting anything in the pills so far as they have determined. They have analyzed some of the pills.

CHAIRMAN BIDDICK: Mr. Willson.

ASSEMBLYMAN WILLSON: That's the question I was going to ask. How much of your contract was fulfilled as far as your time was concerned?

MRS. MEEKS: Well, the exercises were fulfilled.

ASSEMBLYMAN WILLSON: I'm sorry, I mean the over-all time. You paid for what, 3 years?

MRS. MEEKS: Three years, yes, sir.

ASSEMBLYMAN WILLSON: And how many years did you receive on your service?

MRS. MEEKS: How many months, you mean.

ASSEMBLYMAN WILLSON: How many months?

MRS. MEEKS: All together about 3 months because there was sickness in the family and they told us that that would be extended to the end of our term. What with a 10 year lease on the building I believed it.

CHAIRMAN BIDDICK: Now, Mr. Betzenderfer, as a result of the investigation you have made, would you care to state whether you think that the failure there was due to bad business management or whether there was a fraudulent scheme to start with?

MR. BETZENDERFER: Well, I think it was primarily bad business management. As far as I am able to determine, Mr. Uhalde's intentions were honorable. I think there were some sharp practices on the part of his employees which may or may not have been known to him. A combination of bad business practices plus the withdrawal of Mr. La Lanne's name, plus the withdrawal of the financing which was brought about by the sharp business practices. But I am not at all sure that there was any fraud intended.

CHAIRMAN BIDDICK: I would just point this out to the Committee, in an operation such as this, there seems to me that we are talking, we are trying to remedy this more in terms of something in the nature of a permit system. If we want to go that far.

We have talked about some other things that obviously are very wide open frauds such as these life term contracts, high pressure selling for lifetime contracts, that 's one thing. This situation on health studios, if it continues to happen that they fail in business, it almost seems as if it's similar to a promotional deal in which the capital is being taken and maybe the good intentions are there but they are just not good enough to carry through.

MRS. MEEKS: Well, may I ask something? Now, a lot of the girls and myself, we joined the exercise salon because of the name that was on the outside of the building, not what was inside the building. Now, can't we somehow pass some sort of law to have the man that lends out his name to these companies be responsible for the companies?

CHAIRMAN BIDDICK: Well, it would sound simple but believe me that's one of the most complicated of all. You are dealing with an extremely complicated thing, the entire business of corporations.

MRS. MEEKS: Well, it looks like he could investigate whoever he puts in there before he lets out his name.

CHAIRMAN BIDDICK: Well, yes. You could have this if we had a permit system whereby the people had to demonstrate a certain amount of financial stability before they were permitted to sell these contracts and that would be the way you could get at it rather than just something that says that the person could not duck out from his responsibilities or change the name and so on. You are into a whole welter of legal complications, but if you adopted some other avenues that we are seeking why it would be possible that there would be some protection.

I might mention to the Committee while we know that a couple of you can't be here tomorrow, this is the Legislative Workshop Seminar from Stanford University which shows a tremendous amount of work. We are most grateful to Stanford University Legislation Class for doing this tremendous job. I think you will see that if you look through it. They have done a very fine piece of work here. Well, if this is all then, we will conclude this portion of the testimony. Thank you for being here.

At this time I'd like to call Mrs. Phyllis Clark from Stockton's Better Business Bureau who is waiting patiently in the back.

CHAIRMAN BIDDICK: We have contacted representatives of the Better Business Bureau of Stockton, and I understand that you have had a personal experience with the Silhouette situation here in Stockton?

MRS. CLARK: Yes.

CHAIRMAN BIDDICK: Would you care to tell us about that and whatever you can tell us in a general way about what has been your experience with your Better Business Bureau here with the Silhouette.

MRS. CLARK: My name is Phyllis R. Clark. I won't add too much to what Mr. Libby had to say about the San Francisco Bureau generally because our pattern of experience pretty well follows the situation in San Francisco, just as it does in most of the other Bureaus, I presume.

As to the number of complaints and that sort of thing, I do think, however, that we had more going on at other sources such as your office and local attorneys and the District Attorney's Office here than we had -- than other Bureaus had, simply because our Bureau here is a one person operation and when the American Health Studios changed hands my firm was so busy that I could not possibly keep up with all of the calls that I had. So, great numbers of these people went elsewhere for help.

CHAIRMAN BIDDICK: Well, people actually called but you didn't have a formal case on it?

MRS. CLARK: That's right, there were a great many of them and when it began to look that I wouldn't be able to provide them with any real help, I stopped taking complaints.

I'm sorry now that I did, but I couldn't have done otherwise with the office force we have. And so I think I'll depart from that and tell a little bit about my own experience there which is interesting because I joined American Health Studios before I went to Better Business Bureau and Mr. Lucas was the manager of the American Health Studio and assured the members that they had an 8 year lease on that property and were not about to depart under that 8 year term.

And something that hasn't been mentioned by anyone else that I notice is a shifting of equipment that I thought was very odd. One time you would go in and there would be, well, when you went in there and were sold there was brand new equipment, but after they had reached a certain quota at that time the machinery was moved and there were all kinds of old practically worn out pieces of equipment and after a series of complaints there would be other new equipment that arrived. You never knew what was going to be there when you went and they tried the check scheme on me personally of trying to get me to sign a blank check and leave it there on trying to get me to finish up my contract in a hurry.

I heard this story repeated innumerable times by different people who claimed they had no bank account, had no check, didn't want to do it but the offer was finished that night if they didn't sign.

And finally my husband did get our contract for a very small amount one night. They had a big special on so we came out pretty good on that part of it.

Then there was another thing, massages they were selling on a contract basis or they were selling massages in conjunction with the course. If they would sign up tonight they would get 50 massages free and they had a masseuse in there for not longer than a month. If she was there that long. But she was so booked up that she couldn't possibly have kept the appointments. But that was the extent of the thing although they had sold many memberships on that basis.

They also sold many more on the basis that they would provide a baby sitter and this they did provide for about 6 months and advertised that they would provide, and then after about 6 months there was a group of women who arrived there one morning with their babies and no sitter and they were informed that this was to be discontinued.

After some discussion about their advertising and so forth it was begun again but then dropped later I understand. About that time I quit having any personal contact other than Better Business Bureau relationships with them.

CHAIRMAN BIDDICK: How long was the contract that you purchased for?

MRS. CLARK: I think it was 15 months, but I didn't go more than about 4 or 5 times.

CHAIRMAN BIDDICK: At what point in those 15 months did they close?

MRS. CLARK: Well, they went on for about a year after that. And the greater number of complaints we had in the office was after, at that time --

CHAIRMAN BIDDICK: At the time they closed?

MRS. CLARK: When they were shifting between American Health and Town & Country. And then since the time that has been closed we have had one complaint from local people who had bought a membership in a studio in San Luis Obispo which was signed on an American Health Studio contract form. The name of the studio is not American Health and Silhouette Figure Form, however, I believe the name of the studio is Silhouette, but they were still using the American Health - Silhouette Studio Figure Form contract at the time the sale was made and they talked this young couple into buying life memberships, they were going to school down there at one of the colleges in that part of the State, on the basis that when they came to Stockton there was an American Health Studio here and their forms, their letterheads and everything indicated that there was a studio in Stockton.

I think their bill was around 350 dollars that they paid. I don't have the information with me. And they signed another contract at a later date for food supplement or vitamins which they didn't pay for and they came to Stockton and discovered there was no studio here and called me and I told them the procedure, to file out a complaint and they started getting bills from the Retail Credit Bureau in Fresno about their food supplement that had been bought on this other contract and it's in this sort of latent state at this point.

I have suggested to them that they go down there and try to take the matter up down there. These people do not reply to our letters at all or to any complaints that we have sent.

I think other than that I have nothing to add to what Mr. Libby stated.

CHAIRMAN BIDDICK: Would you have any idea of how many written complaints you have of people you interviewed in connection with this health studio matter?

MRS. CLARK: Mr. Tanner has all that information so I didn't bring that with me. He went through my files.

CHAIRMAN BIDDICK: Now, what about the dance studio situation, has that caused much concern?

MRS. CLARK: It has in the past, but the Arthur Murray Studio has been closed here until very recently for some time, and I personally have handled only, I think 2 complaints, and 1 of those was at the closing time when a contract had been signed just prior to their closing the studio and I didn't even get a written complaint on that, although I sent them to the District Attorney's Office because a contract was signed I believe a day or two before the studio closed.

That's the only personal relationship I have had with the Arthur Murray Studios.

CHAIRMAN BIDDICK: Any questions? Mr. MacBride.

ASSEMBLYMAN MAC BRIDE: Did you have any complaints from people who had signed up and paid their money for the health studio and did not get the treatment or did the studio close and they had not used up the amount they had paid for?

MRS. CLARK: Yes, we have numerous ones of both kind. In fact I am still getting calls on those particularly in view of this meeting. I have had several calls in the last few days from the public wanting to know if there is any hope of any recovery.

CHAIRMAN BIDDICK: Further questions? Mr. Z'berg.

ASSEMBLYMAN Z'BERG: Did you get many complaints from people before the studio closed?

MRS. CLARK: I had a consistent file on them, yes.

ASSEMBLYMAN Z'BERG: Now, as a representative of the Better Business Bureau then, do you do anything yourself, does the Better Business Bureau do anything about news releases in the paper telling the public to beware of this, or what do you do?

MRS. CLARK: No, we are not in a position to do exactly that. We try to cooperate with the business itself and we call all the complaints to the attention of the business and we were assured in every instance that we would have their complete cooperation. That this particular thing would be straightened out. They were very glad that we had called it to their attention and they would waste no time in making it right with the customer.

ASSEMBLYMAN Z'BERG: Well when you continue to get complaints and these things aren't rectified, is there any way that you can get that information made public so that other people might benefit by all the complaints that are being made about a particular studio.

MRS. CLARK: Well, that isn't our usual practice.

ASSEMBLYMAN Z'BERG: That's not your responsibility?

MRS. CLARK: No. This is a matter of discretion with the local Bureau, but it's not a procedure we follow.

CHAIRMAN BIDDICK: Thank you very much, Mrs. Clark. We appreciate your coming. We have here some representatives from the Arthur Murray Studios and there are a couple of our members who are not going to be here tomorrow. Mr. Dieden is an attorney and I believe Mr. Burnstein is too, attorneys both representing the Arthur Murray Group and would like to make a presentation at this time.

MR. DIEDEN: My name is Leonard Dieden, I'm an Attorney at Law and Robert Burnstein also an Attorney at Law. Mr. Chairman, Members of the Committee, with your permission I'd like to make a statement on behalf of the clients that we represent at this time.

We are pleased to be able to appear today before this Committee and briefly present some important facts pertaining to the operation of the Arthur Murray Dance Studios in California.

The Arthur Murray Dance Studios, all of them whom operate by virtue of a license relationship with Arthur Murray, Inc., a Delaware Corporation, represent probably 85 to 90 percent of the dollar volume of the schools of dancing in California that offer instruction to the adult public. The Arthur Murray Dance Studios are owned and operated by citizens of the State of California and they gross approximately between 8 and 10 million dollars per year and have a combined payroll of approximately between 4 and 5 million dollars per year.

The studio and schools of dancing are important factors in the economy of each city in which they are located and the owners and operators, along with other businessmen, have become and have accepted the responsibilities incumbent upon leaders in the civic and community growth of their cities. Each studio in California feels a responsibility to the other, and each studio recognizes its importance to the other. Moreover, the studios as a group feel a mutual responsibility to the general public, but the studios have joined together to develop a workable and democratic program of ethical relations amongst themselves and the public on a Statewide basis.

Being involved in a business which requires the supplying of personal services to the public, the Arthur Murray Studios have been sensitive to this responsibility and have for many years done something about it.

Trust funds have been established amounting to approximately 415,000 dollars as of March 1, 1960 which are increasing weekly in order to assure the financial integrity of the studio to its trade creditors, its employees and students. Students are permitted to take lessons from studios other than his or her home studio throughout the State as well as in almost every State in

the United States and certain foreign countries without any additional charge or inconvenience. Teachers are continuously undergoing training programs and cannot qualify to commence or to continue as teachers before passing rigorous training examinations.

ASSEMBLYMAN MAC BRIDE: May we interrupt Mr. Dieden's presentation?

CHAIRMAN BIDDICK: Yes, I'm sure Mr. Dieden wouldn't mind.

ASSEMBLYMAN MAC BRIDE: Well, I just have a question that immediately comes to my mind. Mr. Dieden, as you say, that these services can be rendered without inconvenience to your students and I presume that you mean, therefore, that if one of your studios closes in one community that the students that are signed up for the dance lessons in that particular community can go to another community and get the lessons? Is this not an inconvenience if the studio closes in Stockton and the student has to go to Sacramento to get his lessons from the Arthur Murray Studio in Sacramento?

MR. DIEDEN: Yes, to that extent it would be an inconvenience, but, Mr. Mac Bride, it operates this way also.

Supposing that a student were taking a vacation, for example, a student in Stockton was taking a vacation we'll say in Los Angeles County, they could go to any one of the Arthur Murray Studios in Los Angeles County and participate in the program there.

I might say this for the benefit of Mr. Mac Bride and other members of the Committee, after I complete my brief statement, and it does not have very much further to go, Mr. Burnstein who is the attorney for practically all of the Arthur Murray licensees in the State of California is going to be available for questioning by the Members of the Committee and we would also like to clarify and refute some of the loose statements that have been made by other witnesses heretofore in this Session today.

All contracts with students are in writing and comply

with the Statutes of the State of California as to their form and content and are looked upon by the operator of the studio as a personal trust vested in him by the students. Because of this, demand made by students for cancellation and refund for untaught hours paid for with or without cause alleged by the student are seriously considered and ethically handled on an individual basis. Almost every claim for cancellation or refund and/or cancellation is promptly adjusted in almost all instances to the satisfaction of the student.

Now, why anyone wants to learn how to dance at an Arthur Murray Studio cannot be reduced to simple specifics. There are many reasons for a person wanting to contract for dancing lessons.

The policy of the Arthur Murray Studios has been and will be that it is the decision of the student and not the result of high pressure sales tactics that result in the signing of that agreement. This is easily understood when we consider that not everyone who wants to buy lessons is actually sold lessons. The studio must be sure from observation, inquiry and careful consideration of the student that he really wants, needs and understands the value of lessons to him. Even after a student has signed a contract, if it becomes apparent to the studio that he is not getting the full value of the lessons he is taking, in order to find out what is wrong, and if no answer can be found, he is asked whether he should continue. Those who should not continue and who can be made to recognize this are released from their obligation and refunds made on untaught but paid-for hours of instruction.

As proficiency in anything we undertake is desirable, it is also recognized by students and, therefore, we find many students who extend their courses of instruction to reach this desired proficiency. This sometimes results in very extended courses of instruction but are never the results of pressure sales techniques.

Extension of courses are not approved unless the extension will be of value to the student for whatever value that student honestly can contribute to such an extension. Long-term courses of instruction which must be approved by the operator of the studio are approved only after interviews with

the student and a careful study of his alleged needs and the value to him of the lessons.

His progress, age, health, financial ability and other pertinent factors are considered. Before final approval, a period of time is given to the student to reconsider before such an extension is reduced to a written agreement.

Further recognizing that the continued health and, of course, the life of the student is a factor in supplying the lessons contracted for, the student is given rights to sell or will unused paid-for lessons and to cancel unused unpaid-for lessons. In addition to this, it is generally recognized that when commercial frustration by reason of death or serious health impairments make the continued taking of the lessons unreasonable, refunds are made on an unused ticket of paid-for lessons.

Now, the Arthur Murray organization is an important part of the economic and social function of the communities of this State. It desires to cooperate with this Committee and the appropriate officials throughout the State of California in every way. We contend that the alleged abuses in the field of personal services are not applicable to this organization. Moreover, all of the licensees of the Arthur Murray organization in this State have formed a voluntary non-profit organization which, among other things, provides for self-policing and the protection of the general public. For these reasons we do not believe that the proposed Legislation in the field of personal services is applicable to this organization.

We further feel that the welfare of the State is much better preserved if an industry can regulate itself provided that such regulation contains adequate safe guards for the general public and at this time I want to introduce Mr. Burnstein who will be glad to answer any questions that the Committee has and I think that he would like to explain to you specifically this matter of the trust funds to protect trade creditors, anyone who has extended credit to an Arthur Murray licensee studio, to protect the student in the case of commercial frustration, and I think that when this is explained to the Committee, many of the loose allegations that have been made here today will be found to have had no basis in fact.

CHAIRMAN BIDDICK: Mr. Willson and then Mr. Carrell.

ASSEMBLYMAN WILLSON: Do you have a copy of the standard form of dance contract with you?

MR. DIEDEN: Yes, I think we do.

MR. BURNSTEIN: Yes, and Mr. Willson, as a matter of fact we have submitted all copies of our contracts to the Stanford Legislative Workshop. I believe that Mr. Tanner has received copies which we have offered to give copies, and I believe that if necessary we can get each and every one of you copies for your own observations, but we have made these available, Mr. Willson, to everybody. That is the standard form contract.

If I may, with your permission, Mr. Chairman, just say just a few words before you ask any questions because I know that you do have some questions.

I would like to clear up a few things that Mr. Thelin or that Mr. Z'berg asked because this is a problem that we have been confronted with and that we have recognized for some time as Mr. Dieden has alluded to.

CHAIRMAN BIDDICK: Proceed, Mr. Burnstein.

MR. BURNSTEIN: We have always, during the course of my representation of the Arthur Murray licensees in this State and other States throughout the United States, particularly the State of California, we have recognized that the loss of a leg or that death constitutes commercial frustration and, as you say, physical impossibility of performance. I know of no case, even though Mr. Gustaveson mentioned that he -- he asked this question of somebody, it's down the drain, using the vernacular. That is a surprise to me, because I think I have handled substantially all of the refund problems that have happened for a number of years and we have unequivocally taken the position of commercial frustration and physical impossibility of performance and we have files full of these things where we have approached this on the basis that if you have contracted for something that you cannot now take, of course, there must be a refund to the satisfaction of the student and we can supply many, many things to corroborate that, if you needed it.

The next thing is, which is very interesting, because we were the ones that suggested it -- when I say we, I use that poetically. The Arthur Murray Dance Studios have always taken the position that their contracts, Mr. Z'berg, are not worded in such a manner, nor will any person who buys a contract take the position of a holder in due course of a negotiable instrument. And the reason for that is, by reason of our trust funds, and by reason of the nature of the security device that we create internally in the studio, all these contracts are made with recourse to the studio.

Therefore, the studio takes the responsibility of having this contract in its hands and I can also state this without much doubt, I think of refutation, I think this is so. There may be isolated cases that haven't come to my attention, but I know of no case in the State of California, one that came to my attention, where action has been filed, an action has been filed against a student by a studio or a collection agency or a finance company, that has ever taken the position, let's say a finance company on a holder in due course, or where an action has been filed for untaught hours.

Every suit that I have found so far, that has come to my attention, has been one where the student has taken all the lessons and has not paid the unpaid balance. This has happened

I admit on many occasions and there may be a few cases that I don't know about where a suit has been filed for untaught hours, but I don't know of any and I would like to see these because it would surprise me because they are supposed to let us know about these transactions.

I also want to bring to your attention also, gentlemen, something that Mr. Lloyd, I think that was his name, the man from the Federal Trade Commission. Yes, the Federal Trade Commission. We have been working out and we have completed our arrangements with the Federal Trade Commission. Unfortunately, being a few thousand miles away from the scene he did not have the information on the Federal Trade Commission matter and we have completed all arrangements with a Federal Trade Commission Agreement.

But I would like to supplement that by saying the following, and this is something that we discussed with other people in the State of California, that we thought would be interested in this and have been working on this for some time, and I say this parenthetically, that it was not, there was no catalyst as a result of any investigation because this has been going on for some time.

We have organized, and there will be filed with the Secretary of State within the next few days for the approval of all the licensees, a non-profit corporation which has bylaws in regard to cancellations with or without cause, that is controlled by a multi-lateral contract where the licensees -- there is teeth in this, so that if there isn't a compliance strictly with the internal regulation regarding the ethical relationship with students and trade creditors, that there are democratic processes by which these particular licensees can be brought to bear, and if they don't their licenses are cancelled by reason of agreement.

But, notwithstanding this situation, there is money available in this fund which is constantly growing. It is now, as of March 1st, as Leonard said, as Mr. Dieden said, approximately 415,000 dollars.

Now, we have been asked, I think Mr. Lewe asked me the question when we were in his office, "where is the money located?"

I said we have created this fund in New York and it's been there for years, but if this bothers you there is no problem. This fund can be likewise here in the State of California. We did this only for the sake of creating a central trust relationship of a parent organization who is a parent to these various licensees, so that the money is available.

There has not been one studio in the history of Arthur Murray, and there are 450 studios, that has closed, other than this short closing of the Stockton studio, that has subjected any student to any problem of getting the value of what they have contracted for and should have received by reason of the terms of the contract. And when Tom, Mr. MacBride asked that question, that is a good question. That is, if this were not an organization that keeps expanding and never lets it contract by reason of the local or the particular location of the studio, this would be something that would be somewhat worthless unless you could go and get your money out of this fund which is available, but for this temporary interference of this studio which is by reason of the various problems, landlord - tenant relationship and the likes, students have not been subjected to go to location to location to location or out of the city, unless they too wanted it.

Now, talking about what Mr. Jewel said and he has given us a great deal of thought, he said -- I think he was the one that mentioned it, about what kind of people are these that buy these contracts?

We have with us, I don't know if you want to see this, but I thought it might be worthwhile. We have with us testimonials of people, Dean of the University of Stanford, Judges of the Superior Court, of the City and County of San Francisco, people who are in the Labor Commissioner's Office in the State of California, people who are our students and have been actually in the studios for a long time and they say, "we think we are getting exactly what we want." I don't say that, of course, to tell you that all people, notwithstanding their relationship to the Federal, State or City government are welcome in the Arthur Murray Studios, and that we do try to do those things that we set out to do.

I would like to submit myself to any type of question

that you gentlemen may have, because we have material -- let me just say one thing, that I would like to mention to you just for your consideration.

I have investigated the -- let's say the cooperation of licensees who are businessmen in each community, to their own civic and community responsibilities. These organizations are not periphery organizations, they are organizations who belong to Chambers of Commerce, they belong to the Better Business Bureau, and here I have with me likewise commendations from the American Cancer Society, commendations for teaching retarded children. commendations from the Veterans Administration for therapeutic or paraplegic dancing that we sent free of charge. We have donated this year already, for retarded children in the City and County, in the County rather, I think, of Los Angeles, for retarded children and the mentally ill, 13,000 dollars of actual teaching time that we have paid teachers that are being paid under the laws of the State of California. Their minimum wage the women -- and their contractual wage -- the men.

We have likewise done this in regard to Cancer Societies, and we have likewise done this in connection with all charitable and integrated community responsibility. These people have seen their obligation in their communities, the organization has been in effect for many years, as we mentioned, I don't think anyone mentioned this, there are 75 Arthur Murray Dance Studios in the State of California, if I recall now, all operated by individual proprietors, all operating under a license and under this new operation; namely, under this non-profit corporation.

They will be members of this non-profit corporation, bound by a code of ethical relationship to themselves, to the community and to students, and if I -- I will be very happy to try to answer some of these questions.

CHAIRMAN BIDDICK: I'd like to have a chance to ask you some questions. You are so very enthusiastic that I almost lose sight of some of the things that I have in the file here. Do you have a contract here? I imagine you could sign up the majority of the Committee.

The fact remains that this cancellation, which is one

of the key issues that we are interested in, is a matter of your own individual determination, isn't it?

MR. BURNSTEIN: No, sir, it is not so.

CHAIRMAN BIDDICK: You mean there is not a cancellation provision in the standard contract?

MR. BURNSTEIN: Let me qualify this. There is not in the contract, but I will tell you for what it's worth that the great majority, in fact I would believe that almost all of the cases that have come to my attention have been cancelled; but then let me make this statement.

As of probably the 28th day of May, and also with our understanding with the Federal Trade Commission, our contracts will now provide by our internal understanding and our own policing, that these contracts may be cancelled with or without cause. With a formula that we are establishing in connection with refunds that fits within the expenditures that are made for lessons taught and those that remain untaught. Now, we have discussed -- for your information, I think you'd be very interested in what we did with the Federal Trade Commission.

CHAIRMAN BIDDICK: This is extremely important, I think we ought to know just what you are doing in the way of this cancellation business. I don't imagine we have that yet, do we?

MR. BURNSTEIN: No, you don't have it yet, sir, and I'm sure that you will receive it very shortly. This will be reduced to formal writing and approved by the Federal Trade Commission approximately, I would say, oh, by the next week. I have been talking to them and discussing with them, with my associates in New York and apparently they will reduce this to formal execution by next week, but let me tell you the only major problem, and I say this seriously, the only major problem is exactly what you and I and all of us would be concerned about. This cancellation problem. And this is what we have agreed to do with the Federal Trade Commission, which they say is what should be done.

The question that comes up, are not the original

contracts so much, because they know from their investigation now that we have handled ethically cancellations. But renewals -- you and I come in to the studio, we sign up for 10 hours, 2 months later we sign up for 1200 hours. Well, what is the story, I mean, why did this happen? Shouldn't there be some cooling off period where a person has an opportunity to determine this. We have agreed with the Federal Trade Commission as follows, which they have approved: "That we will provide that any student who extends a contract or renews a contract shall have the right to cancel with or without cause within one week from the date of the commencement of the hours that were added on or renewed to an existing agreement."

For example, if I had a contract of 100 hours and then I signed up for another 100, I would have 1 week after the commencement of the 101st hour of instruction to cancel with or without cause. Then we have gone one step further. We had said ourselves, they had never asked us to, but we have offered to do this, which we are doing. We have given students the right to cancel with or without cause on the basis of a similar formula and formulae that we worked out with the State of New York, and this is what we have done with the Attorney General of the State of New York. I will paraphrase this. "If a cancellation occurs within 60 days", this is no renewal, this is where the basic agreement comes, "from the date of the contract the student shall be entitled to a refund of the amount paid by him in excess of that due for the lessons taken at the rate contracted for plus a service charge of 25 percent of the balance due thereunder".

This is what the Attorney General asked us to have in our New York operation which we have done now in California.

"B" If cancellation occurs after the 60 days but less than 120 days from the date of the contract the student shall be entitled to a refund of amount paid by him in excess of that due for the lessons taken by the student at the rate contracted for under such contract plus a service charge of 40 percent of any balance due thereunder. "

"C" We have added "C" in California, under our non-profit association which the Attorney General did not ask for but we have asked for "C". If, after 120 days, refund is demanded

we will refund to the student that amount of money that remains untaught equal to the cost of teaching out the instruction -- the remaining untaught hours."

For example, we have a formula which is published as far as the students are concerned, what it costs per hour to teach out these lessons. Now, these are the basic formulae of cancellations with or without cause. This is what we have worked out with the State of New York, this is what we have agreed to with the Federal Trade Commission. There are other things that have been considered, abuses, Mr. Chairman, and I say this, there are licensees that we have found in our own internal policing in the past which I almost have to concede was good, but it did not take the force of a multi-lateral binding contract where we can say now, this is a notice that you have breached your franchise.

Now we have a multi-lateral agreement where we have a democratic process by having our own hearings, and there is this cancellation. But, for example, we'll take salesmanship. There have been some statements here, they have been overwhelmed by some people. This is gone in the Arthur Murray Studios. Also the question of teachers actually selling lessons, a thing of the past in the Arthur Murray Studios. You don't use the time while you are giving dance instructions to try to sell lessons. Which is the unnatural gravitation probably of some of these people if they are not properly disciplined. We also keep on record and on file the qualifications of each teacher and if we refuse to let a student examine the qualifications of a teacher, the contract can be cancelled without cause.

CHAIRMAN BIDDICK: Are you doing anything about eliminating the length of term or the total amount of the contract?

MR. BURNSTEIN: Not the total amount, but the term. This is something that we have talked about for some time. At first we went -- incidentally, let me tell you this if I can just take a moment of your time to give some of the historical background of this.

At one time we felt that a studio should not sell more than so many hours to one particular student, which is quite logical. These are long prepaid agreements and notwithstanding

the fact that a student may have a hell of a big goal for himself, whatever that goal may be for himself rather, and they want to buy these lessons for long terms for say a 1200 hour course, we said and we came out with a regulation which was binding on each licensee and it was effective, that no teacher or no student rather, should be sold more than 1200 hours at any one studio at any time until there has been taught out at least 80 percent of an existing contract, if it was up to 1200 hours.

Now, we found, and some of the licensees themselves have found, that lifetime contracts, as this word is used in legal antics, and generally this word, this word lifetime disturbed me semantically for a long time myself. We have now found that many licensees in our association, and we have discussed this and we are having a convention for the final draft, that is the final filing of the multi-lateral contract the 28th of May in Fresno, of this month.

These people are not selling, so many of these licensees were not selling these long term contracts any more because they are too expensive to actually handle. The benefits that come to the students really, in regard to the teaching out of the administrative cost and these other fringes that go along with their rights as a long term student are very expensive to the studio and the facts and figures in regard to the net monies made on long term contracts are easily available to anybody and we have discussed this. It is not our policy, Mr. Chairman, at this time to say that the costs shall be reduced. That is, so much for a contract as being X dollars. That is something that we will have to work out, I can't commit myself now. This will have to be worked out within the California licensee as to what it should be, but we don't want to get involved in a Cartwright Act problem.

We are not going to be a price fixing organization and I don't want to be involved with any anti-trust problems. We want to be an organization which will comply strictly with our own internal policing without getting involved with anti-trust at the same time; but at this time we are selling long term contracts, yes we are.

CHAIRMAN BIDDICK: What would you think of Legislation

that would limit dance studios from selling more than a year in advance of their services?

MR. BURNSTEIN: Personally I would say that this would not be economically feasible for the studio to sell students lessons on that basis and secondly I believe that with the cancellation rights that are now given and will give and continue to give, that to limit the number of hours to a student that can be sold or the period of time in which a number of hours must be taken, would not be the realistic way of having an organization of this type handle its own affairs because I don't think, and I respectfully submit this, that the long term agreement that has been a problem, that has been discussed here very intelligently and seriously; it's not as serious a problem when a standard of conduct is as high as the Arthur Murray Studios. Notwithstanding some of the comments that may be made and there may be some isolated instances where there has been abuses.

CHAIRMAN BIDDICK: The thing I can't quite reconcile is this. If the Arthur Murray Studios offer as much as you say, and if they offer all these opportunities, why do they need to tie people up for so many, many years. If they are this good wouldn't the people be anxious to renew the contract on their own?

MR. BURNSTEIN: Highly probable, except that we have found, Mr. Chairman, and this is something that is very interesting. We have found that many people, and this is not as a result of high pressure tactics, because you can look and talk to the people who have gone into this carefully, people who are life-time students as you have called them here. These people say, "this is what we intend to get or want to get out of our dancing instruction and these are the number of hours that we believe that we want, after discussing this." And they do sign up.

Now, to frustrate these people on a particular goal, I do not believe is the way that this should be handled because I personally do not believe that the reduction of the period of time within which lessons shall be taken on a long term contract will actually take care of the abuses as far as we are concerned, that you are worried about because we don't have the question of the nomadic studio.

We don't have the question of these financial

irresponsibilities of a person getting a refund or the telephone company.

MR. DIEDEN: Mr. Biddick, on that subject, was it in your mind that suppose a person comes to an Arthur Murray Studio and has been there for some time, satisfied with the services that they are receiving and say to the licensee, "I want to sign up for 1200 hours of dancing instruction." It wouldn't be your thought that that contract would be illegal, would it?

CHAIRMAN BIDDICK: Well, of course, I don't know how much 1200 hours involves as far as years are concerned, but in going through the file I notice the pattern normally, and maybe this has been altered, of getting a person and selling him a short term contract and then working on them for a longer term contract, and get the longer term contract and, of course, we have a collection of instances where people have been obligated in many places from anywheres from either 10 to 15,000 dollars.

Well, I just can't reconcile that with good ethical conduct. It seems to me that if you have something to offer that is that good, you can sell it for a few months ahead, for a year ahead, and let the person then decide at the end of that time, free from this pressure, whether or not they want to renew. That's my thought.

Now, 1200 hours, I don't know how much that is, how many years it is, but 1200 hours for an 85 year old person is a lot of hours and we have had this illustration given to us.

MR. DIEDEN: Well, my point is this. That if a person wanted to contract that way, free from any duress or any high pressure technique, even if you were contemplating some legislation, you wouldn't say that that situation was illegal? The most that you would say would be that the person who had contracted for the lessons could not have the obligation enforced against him, is that what you have in mind?

CHAIRMAN BIDDICK: Well, we might have in mind just saying that the contract, we might specify certain provisions that could not be in the contract and then that would say that they were illegal. That we would declare the policy in the State of California for a studio that contracts in this field

could not be entered into which would extend for more than a certain period of time.

MR. DIEDEN: Or a dollar amount?

CHAIRMAN BIDDICK: Or a dollar amount, I don't know. We don't have anything spelled out in our proposals yet.

MR. DIEDEN: In other words, it would be quite a novel approach, I think.

CHAIRMAN BIDDICK: It might be. We have other alternatives too. I have been trying to think of the simplest one. I am trying not to put anybody, in my mind, put anybody out of business, but you can always do these things the hard way, such as licensing and those things, but we are trying to find a simple way to make a contract which would not be burdensome and which the person would not be taken advantage of. You have a legitimate service to render, and you have had good success with many legitimate operations. We are thinking of those which you say are the exceptions. Mr. Willson?

ASSEMBLYMAN WILLSON: At the present time, I assume that your limit might be 1200 hours on a lifetime or long time contract?

MR. BURNSTEIN: Yes, sir.

ASSEMBLYMAN WILLSON: You have no prohibition against any one of your licensees selling a 70 year old woman, for example, a 1200 hour contract, and what would be the regular price for a 1200 hour contract?

MR. BURNSTEIN: Well, I would say a regular price for a 1200 hour contract would run approximately, depending upon the type of lessons they take.

For example, there are group lessons, styling lessons, private lessons -- but I would say you would have to anticipate a cost of approximately 11,000 to 12,000 dollars.

ASSEMBLYMAN WILLSON: And do you have figures available which would show the percentage of the business of a particular licensee or an average perhaps over your 75 in the State of California, what their average in long term contracts is as compared with the other?

MR. BURNSTEIN: Oh, we could give you records as to the extent of every contract, type of every contract, the number of lessons taken in every contract.

ASSEMBLYMAN WILLSON: Well, I would like to request, Mr. Chairman, that at least, if we don't have it already, that we have the standard form of this firm.

CHAIRMAN BIDDICK: We have that already.

MR. DIEDEN: Do you want those statistics, Mr. Willson?

MR. BURNSTEIN: We could get those for you.

ASSEMBLYMAN WILLSON: I think it would be helpful to us.

MR. DIEDEN: We will supply those to the Committee.

CHAIRMAN BIDDICK: I think one thing would be helpful too, you probably haven't had a chance to read this Stanford Report yet?

MR. BURNSTEIN: I've read it.

MR. DIEDEN: I have read it all but the Legislative proposals last night. It was delivered yesterday.

CHAIRMAN BIDDICK: Well, if there are any of these specific instances that you can comment on or clear up, I think it would perhaps be of value because the Committee Members have just received these and haven't had a chance to go through them. I have been hurriedly looking through them and there are some specific examples given, and if there are any particular answers as to why they were not handled by your procedure, or if these were just cases where you can only say now, well, we should have done it differently, I think it would be desirable

for us to know that.

MR. DIEDEN: Well, we will be here tomorrow and if you want us back here tomorrow toward the end of your Session for further additional questioning, why we'd be happy to. We will be here and happy to come forward.

CHAIRMAN BIDDICK: I think probably we would like to have you. One thing we haven't had yet (and we are going to soon after adjourn, one member has to catch a plane). We haven't had a general survey by Mr. Tanner yet, which is a kind of a State-wide view of this thing, but we do want to have it tomorrow.

MR. DIEDEN: You do have one or two questions, Mr. Z'berg?

ASSEMBLYMAN Z'BERG: What I'd like to do is to get you fellows' perspective if I can. Now, Mr. Burnstein, who do you represent?

MR. BURNSTEIN: The Arthur Murray Dance Studios in California.

ASSEMBLYMAN Z'BERG: Is this a corporation or is this individual franchises?

MR. BURNSTEIN: No, these are individual licensees, but we are about to file within the next couple of days a non-profit corporation which is truly a trade association which is encouraged by the Federal Trade Commission, if they had jurisdiction over us.

ASSEMBLYMAN Z'BERG: Is there an Arthur Murray, Inc., in California?

MR. DIEDEN: No, sir.

ASSEMBLYMAN Z'BERG: So the situation is this, Arthur Murray, Inc., from Delaware?

MR. BURNSTEIN: Right-o.

ASSEMBLYMAN Z'BERG: And then you have the franchise dealers out here?

MR. BURNSTEIN: That is correct.

ASSEMBLYMAN Z'BERG: You represent Arthur Murray, Inc., is that right?

MR. DIEDEN: No, I represent, in association with Mr. Burnstein, for this particular hearing.

ASSEMBLYMAN Z'BERG: Now, each individual franchise dealer, do they have you as their attorney?

MR. BURNSTEIN: That is correct.

ASSEMBLYMAN Z'BERG: Why can't they hire Tom MacBride or somebody else if they want Tom?

ASSEMBLYMAN MAC BRIDE: Because he has already got the business.

MR. BURNSTEIN: Tom is an old classmate of mine and they just well may. It just so happens, it happens only as the result that I have represented a great majority of them for many years by reason of my technique, and modestly, maybe they like the way I handle it, and maybe I'm doing a good job.

ASSEMBLYMAN MAC BRIDE: He has never been modest, I'll tell you.

ASSEMBLYMAN Z'BERG: All right, so then when you speak about what those are in California, you know because you represent all of the Arthur Murray dance studios, right ?

MR. BURNSTEIN: Well, that's sort of a loaded question. I'll say this, Mr. Z'berg. That is, I believe that most of the matters that come to the Arthur Murray Studios' attention, if my clients will keep me regularly informed, I should know about it.

ASSEMBLYMAN Z'BERG: Well, if they are sued on a contract, you have to represent the Arthur Murray Studios?

MR. BURNSTEIN: If there is a suit on a particular action by the studio against a student?

ASSEMBLYMAN Z'BERG: Yes.

MR. BURNSTEIN: No, we do not handle any collection matters.

ASSEMBLYMAN Z'BERG: Then, as far as the individual practice of collections are concerned, you aren't necessarily aware of the fact, the circumstances surrounding any individual suit which might be filed, I take it then, because you don't represent the dance studios on this?

MR. BURNSTEIN: Now, let me clarify this if I can so we understand each other. If an action is filed against a studio for a refund, let's assume it's not been settled -- and incidentally, there are 2 pending now which I am defending because we do not believe that they should be refunded because of the various circumstances which I will be very happy to discuss if you want it. We have been called upon to defend most of these. Many times local counsel out in the areas -- look, I can't get down to try that case, I will associate you.

Now, when an action has been filed against a student who has taken all the lessons and has not paid for it, this is turned over to a collection agency, licensed under the laws of the State of California and I know nothing about those, Mr. Z'berg.

ASSEMBLYMAN Z'BERG: All right. Can you give me any idea of how many, in the last 5 years, how many franchise dealers have become insolvent and have gone bankrupt?

MR. DIEDEN: None.

MR. BURNSTEIN: None, I know of none that have gone through bankruptcy.

ASSEMBLYMAN Z'BERG: All right. Now, when Arthur Murray, Inc. gives a franchise, do you have a copy of the franchise agreement so that we can have that also?

MR. DIEDEN: Oh, we have given one to Mrs. Nelson already, Consumer Counsel.

ASSEMBLYMAN Z'BERG: So that we can have that so we can determine what amount of control Arthur Murray, Inc. has over individual franchise dealers?

MR. BURNSTEIN: Right. And let me just mention this, Mr. Z'berg, so you will be kept up to date. When this non-profit association actually becomes implemented by reason of this filing and the application we are making to the Corporations Commissioner --

ASSEMBLYMAN Z'BERG: Can we have a copy of that?

MR. BURNSTEIN: Oh, yes, but one other thing, they will likewise do many things internally in the State of California that Arthur Murray by way of distance, we feel, maybe should be doing but hasn't been doing completely as we want it to be done in the State of California.

ASSEMBLYMAN Z'BERG: Now, do any of your contracts provide for payment in advance?

MR. BURNSTEIN: Contracts say that a lesson may be paid for either in cash or by way of installments. Under the Unruh Act we provide specifically -- now, this is just under the Unruh Provisions.

ASSEMBLYMAN Z'BERG: Now, when you take paper, do you ever negotiate that paper?

MR. BURNSTEIN: Yes. We assign the paper to finance companies generally.

ASSEMBLYMAN Z'BERG: Now, did I understand you to say that in any action in which a person was sued for non-payment of his contract or his note, or whatever it might be, the defense of negotiability has never been raised?

MR. BURNSTEIN: The defense of a holder in due course has never been raised, to my knowledge.

ASSEMBLYMAN Z'BERG: So I take it then, that in the event that there was legislation that a personal defense could be used --

MR. BURNSTEIN: No objection. No objection to this at all.

MR. DIEDEN: The word, or "order" has been taken out of our paper and they are with recourse.

MR. BURNSTEIN: We have no objection to that at all, Mr. Z'berg.

ASSEMBLYMAN Z'BERG: Well, let me ask you this. What justification do you have for, let's say you sign up a contract for 10,000 dollars on one of these 1200 hour deals, and the person takes 2 lessons. Then you provide in your standard, or you provide here in your agreement with the Federal Trade Commission that they will pay for the two lessons and 25 percent or 2,500 dollars?

MR. BURNSTEIN: That's not -- you didn't give me a fair example. A life time agreement or a long one is cancellable, or a total sum repaid within 30 days with no money held back.

ASSEMBLYMAN Z'BERG: All right, suppose then they cancel it we will say after 2 months, then they will have to pay 2500 dollars?

MR. BURNSTEIN: Any agreement that is executed under the, let's say under the terms of your example, for example, a 10,000 dollar agreement, using the formulae that we set up with the Attorney General in New York which we're following now in California, that if the cancellation occurred within the 60 days, we get this amount of money, namely, that sum of money equal to the value of the lessons taken plus that 25 percent.

ASSEMBLYMAN Z'BERG: Let's say he took 2 lessons?

MR. BURNSTEIN: Yes.

ASSEMBLYMAN Z'BERG: And then they get back 7500 dollars and you keep 2500 dollars? What's the justification then for that in your opinion, why do you feel you are entitled to 2500 dollars?

MR. BURNSTEIN: Well, we feel as follows: That we pay, for example, for the right to do business which is not refundable to, we will say our licensor. We pay commissions or salary to people who may be involved in the operation of the administrative policy of the over-all studio on a cost accounting basis which is not refundable if one student or if more than one student pulls out; but we pay various other expenses for the purpose of doing business.

We feel that -- let's say the exposure of the general course of doing business gives us the right, assuming this is cancellable with or without cause, to have a fair return upon a cancellation, with or without cause.

And, incidentally, I believe you will find in the Legislative Workshop that is presented by Stanford, that comments, that this type of approach is not an unfair or unrealistic approach to try to find out some formulae. They have that a little higher. They have a little different bases, and they can explain that tomorrow.

ASSEMBLYMAN Z'BERG: This trust fund, that is in New York?

MR. BURNSTEIN: Yes, sir.

ASSEMBLYMAN Z'BERG: Who administers that trust fund?

MR. BURNSTEIN: Arthur Murray, Inc., the licensor upon demand by any, let's say licensee, or upon request, if I happen to have a matter to use this money to meet these various obligations.

ASSEMBLYMAN Z'BERG: Now, is there a trust agreement that is on file some place?

MR. BURNSTEIN: Only the agreement which is embodied in the license agreement which Mrs. Helen Nelson has, embodied this trust agreement right on the face of it, and you have a copy of that.

ASSEMBLYMAN Z'BERG: Now, is Arthur Murray, Inc. doing business in the State of California?

MR. BURNSTEIN: It is not doing business in the State of California. Well, let me say this, based upon the loose term of what constitutes doing business in the State of California since two very recent Supreme Court cases, I would say that I doubt whether I would fight too vigorously, looking at it realistically, whether or not Arthur Murray, Inc. is doing business in California for jurisdictional questions within our Constitutional Courts.

ASSEMBLYMAN Z'BERG: Now, let's assume that they are not. You have some question about that? If they are not doing business in the State of California, and I have a client I represent, and I want to file suit to get some of this money out of the trust fund, and I live here in Stockton or Sacramento, where do I have to file suit, in New York?

MR. DIELEN: No, you do not.

MR. BURNSTEIN: If you say you are trying to get personal jurisdiction --

ASSEMBLYMAN Z'BERG: I want to get some jurisdiction over some of this money in New York.

MR. BURNSTEIN: If you wanted to get personal jurisdiction over this money to reach this trust fund, you would have to file suit against Arthur Murray, Inc. as such, that is correct, and Arthur Murray, Inc. will either have to object to the personal jurisdiction and say I am not within the State, or voluntarily say I'm exposed to this for jurisdictional purposes.

CHAIRMAN BIDDICK: Have they ever been named?

MR. BURNSTEIN: Yes.

CHAIRMAN BIDDICK: I just want to follow that up, Ed, while I'm on it. Have they ever been named in this State?

MR. BURNSTEIN: Yes, sir.

CHAIRMAN BIDDICK: Have you objected jurisdictionally?

MR. BURNSTEIN: We objected to jurisdiction in one case

which does not involve a student. It was a question, it was a very complicated question involving a problem in a foreign country, Australia.

CHAIRMAN BIDDICK: Do you have cases by students where you did not object?

MR. BURNSTEIN: We have never objected to the jurisdiction of Arthur Murray, Inc., but there has never been a suit filed against us. But when they have said how about Arthur Murray, Inc., we have said, if you are concerned about this, we will contact New York and work out this problem.

CHAIRMAN BIDDICK: But there has never been a suit filed by a student against Arthur Murray, Inc. in this State?

MR. BURNSTEIN: To my knowledge, I can't recall any, Mr. Chairman.

CHAIRMAN BIDDICK: But this method has been used though, apart from litigation?

MR. BURNSTEIN: That's correct.

ASSEMBLYMAN Z'BERG: Do you have any objection to designating an agent here in California?

MR. BURNSTEIN: Do I?

ASSEMBLYMAN Z'BERG: Does Arthur Murray, Inc.?

MR. BURNSTEIN: I don't know that, sir. You mean to do business?

ASSEMBLYMAN Z'BERG: Well no, just for service, for processing so we wouldn't have to file a suit back in New York?

MR. BURNSTEIN: I would say this, only on the basis of my own personal feelings. I see no personal objection to this because I would say this, Mr. Z'berg, that if this is brought up in a Court, I am positive that the Court would hold that they are subject to the jurisdictional process.

ASSEMBLYMAN Z'BERG: Could you do this, could you notify the Committee, we'll say within the next 6 months if it comes about? I would be very interested in whether or not it comes about, whether or not you do anticipate or will designate a person for service here in the State of California.

MR. BURNSTEIN: I will surely find out, I have no particular objection to it. We would be very happy to make it simpler for you. As I told Mrs. Nelson, I think Mr. Lewe asked the same question. If it's a question of jurisdiction over the fund, we will have the fund in California.

ASSEMBLYMAN Z'BERG: That's not necessary as long as we have jurisdiction, so we don't have to file our suit back in New York.

MR. BURNSTEIN: No, but if you want the money here, this is not difficult for us to get this right here in California. That would be better than worrying about process. I mean there it is.

CHAIRMAN BIDDICK: Mr. Mac Bride.

ASSEMBLYMAN MAC BRIDE: Following up on this fund, you say there is around 425,000 dollars in the fund?

MR. BURNSTEIN: That's right.

ASSEMBLYMAN MAC BRIDE: There are 435 studios in the United States, does this 425,000 dollars represent the total trust funds that have been deposited?

MR. BURNSTEIN: No, sir, just California.

ASSEMBLYMAN MAC BRIDE: There would be, seems to me, no question but that the money ought to be here in California.

MR. BURNSTEIN: We have no objection to that. I'd be glad for you to tell me to do this.

ASSEMBLYMAN MAC BRIDE: Now one other question. Mr. Burnstein, you say that it would be economically unfeasible or extremely difficult for the Arthur Murray Studios to operate

unless you were able to enter into these long term personal service contracts?

MR. BURNSTEIN: Yes, sir.

ASSEMBLYMAN MAC BRIDE: And you are liable -- I know you are going to come right back at me with a real quick, correct answer, but will you tell me, have any other personal service contracts, that you know of, been paid for in advance on a 1200 hour performance basis?

MR. BURNSTEIN: Well, you can use many examples, Mr. MacBride. Of course, you have to look back into maybe comparable type of operations, and I don't like to use comparables.

ASSEMBLYMAN MAC BRIDE: Well, let's stay away from the two comparable operations. One would be dance studios, the other would be health studios. Now, can you cite to me any examples of personal service contracts that have been entered into on a prepaid basis for as long as 1200 hours?

MR. BURNSTEIN: I would say, it would be difficult for me to say this, other than to say that there may be, and I am only talking off the top of my head, Mr. MacBride.

ASSEMBLYMAN MAC BRIDE: I can just think of none.

CHAIRMAN BIDDICK: I can, Tom, and the obvious one is this medical service.

MR. BURNSTEIN: Schools, medical service. All of these single premium annuities.

CHAIRMAN BIDDICK: Well, I am not trying to answer your question, I thought of that, but I also think there is a considerable difference between medical services because normally it involves a close panel or it may involve a large panel of doctors, or it may involve an insurance company with free choice of physicians, but you can have long terms in a sense of maybe a year at a time, I suppose even longer terms, maybe 3 years on a medical contract; but that's one of the few that occur to me and I don't believe there is too much of a similarity in similar or related fields to this.

ASSEMBLYMAN MAC BRIDE: That's all right, it gets it out in the open and possibly that is the area of comparability that we should explore. Would it be normal that a doctor would enter into a contract involving 1200 hours of future services? He probably wouldn't and so, therefore, maybe we should limit this down.

Now, the next thing is, to what extent do you investigate the financial ability of your students when you enter into a contract which may involve 1200 hours, the 11,000 dollars? To what extent do you investigate their financial ability to pay this?

MR. BURNSTEIN: We have the following procedure. When a person contracts for lessons, either in cash or by installment basis, they fill out a credit statement. They make various representations in regard to their financial ability and if this is on an installment basis, they make representations to what their income is monthly, weekly, periodically and the relationship of the required installment as it bears to their total present obligations. It would be things such as mortgage payments, contract payments, insurance payments, all this information from them on the contracting of lessons.

ASSEMBLYMAN MAC BRIDE: Well, what formula do you use. People are supposed to pay X percentage of their monthly income for rent, X percentage for food, X percentage for entertainment, what percentage of a person's monthly income do you figure they can spend for dancing lessons?

MR. BURNSTEIN: I cannot answer that. Each licensee has tried to gear himself based upon good economic practices as to what would be the maximum that a person should even think of contracting for. It may be 10 percent, some may say 15 percent, I can't answer that.

ASSEMBLYMAN MAC BRIDE: Well then, you leave this entirely within the whim and caprice of the licensee, it is not regulated by Arthur Murray, Inc., there is no directive from Arthur Murray, Inc. that says that you shall not enter into an 11,000 dollar contract if the person with whom you are contracting only has a monthly income of 700 dollars?

MR. BURNSTEIN: If a person had a contract, an income of 700 dollars and contracted for X thousands of dollars, it would not be approved by the licensee. It just wouldn't be approved, because this is obvious on the face of it that this is beyond the normal means and if it is approved on this basis, this is an error or bad business judgement for anyone to contract on this basis, Mr. MacBride.

ASSEMBLYMAN MAC BRIDE: You speak of looking into the credit and so forth and so on, do you take an installment contract from a husband without the wife's signature?

MR. BURNSTEIN: Yes.

ASSEMBLYMAN MAC BRIDE: You have done this quite frequently?

MR. BURNSTEIN: I don't know how frequently, but it has been done.

ASSEMBLYMAN MAC BRIDE: In other words, you would permit a husband to enter into a dance instruction contract that might entail 11,000 dollars of the family's fortune, so to speak, its income without requiring also the signature of the wife or even imparting to the wife the knowledge that the husband is incurring that kind of a debt for the community?

MR. BURNSTEIN: I would say this, that whether or not we impart the knowledge, I know of no cases, there may be some. I know of none personally where any long term agreement or any agreement of any substantial amount of money was not known completely by both husband and wife, notwithstanding who the signator of the contract happened to be, but I don't know now, there may be some. I don't know of any contracts that have come to my attention where a person says, well, my wife knew nothing about this or the husband knew nothing about it, whatever the case may be. I don't recall of any of these. Maybe Mr. Tanner may have some.

ASSEMBLYMAN MAC BRIDE: Didn't you have a lawsuit here in the Sacramento - San Joaquin Valley within the last 4 or 5 years involving a set-up just like this where the husband had contracted for 10 or 11,000 dollars worth of lessons and the wife

knew nothing about it?

MR. BURNSTEIN: That I can't answer. If that was here, it was not handled by me. I know nothing about this one.

ASSEMBLYMAN MAC BRIDE: Well, I know of another one myself. I can't recall the names, but this was in my office. But I can recall an instance where the husband had contracted for 8,000 dollars worth of dancing instruction and the wife came to me and she knew absolutely nothing about it and had not signed the contract.

MR. BURNSTEIN: Well, of course, this may be bad from a sociological relationship, you know, between husband and wife and maybe the studios should consider that when you get involved in a dipping into the family relationship, but looking at it purely in regard to a contractual obligation, the signature of the wife, I mean, generally speaking, on a purely lawyer basis, is not necessary in order to enforce the obligation.

ASSEMBLYMAN MAC BRIDE: That is my next question, Mr. Burnstein. Don't you think that possibly the Legislature would be correct in imposing some sort of a limitation upon the rights of a husband where he is living with his wife and his children, to limit him in his ability to contract purely for entertainment to a sum as great as this without first obtaining the signature and consent of the wife?

MR. BURNSTEIN: I'd have no objection at all to that, Mr. MacBride. This may be a very sound idea. I have no objection to that.

ASSEMBLYMAN MAC BRIDE: That is all the questions I have. Oh, I have one other question. In the studios, are there salesmen and saleswomen as such, other than the manager of the studio?

MR. BURNSTEIN: That is correct.

ASSEMBLYMAN MAC BRIDE: And they receive a commission, do they not?

MR. BURNSTEIN: That is correct. Some studios, some

studios do not pay them a commission.

ASSEMBLYMAN MAC BRIDE: But the dance hostesses themselves or the instructresses you call them, I guess....

MR. BURNSTEIN: I am glad you corrected that.

ASSEMBLYMAN MAC BRIDE: ...the instructresses, if we call them that, they are not permitted to sell?

MR. BURNSTEIN: No.

ASSEMBLYMAN MAC BRIDE: They are not permitted to solicit business?

MR. BURNSTEIN: As a matter of fact, this is one of the things that I mentioned to the Chairman a moment ago that we made very strongly and clearly at our request, that an agreement with the Federal Trade Commission so provide that the sales will not take place during the course of instruction by any teachers. This has to be done on a level of arms length transaction between persons...when a person gets too close to a teacher, this is not right, I agree with it. I agree with it whole heartedly.

ASSEMBLYMAN MAC BRIDE: In your contract that you are working up, this formulae that you speak of whereby the refunds will be made, are you taking into consideration the commissions already paid and in the event there is a cancellation, whereby you would hold back 25 percent of the unearned money, so to speak, does the salesperson still get his or her commission?

MR. BURNSTEIN: He still gets the commission, the full commission. This is something we straightened out many years ago with the Labor Commission where we wanted a ruling on this because we do this voluntarily all the time, we do not charge these people on this type of refund, that is on commissions.

CHAIRMAN BIDDICK: Mr. Tanner had a question.

MR. TANNER: This is not a question. I just wanted to point out that here is a recent case where I interviewed a woman in Southern California of a recorded interview and just part of this interview, going right directly to your question.

"Question. This balance plus your 35 dollar discount which you previously mentioned and the 344 dollar down payment has to be made on October 29, 1959, and the balance of 1,500 dollars was to be paid in 10 monthly installments, is that correct? The answer: Yes."

And later on in the interview I asked her I repeated again the amount involved and the 150 dollar a month payment, the 10 monthly payments and I asked her what type work she did, she said that she was a distributor at the local laundry. "Question. What is your monthly income from that? It varies, sometimes we don't have any work and we take off early, but it averages, going home pay about 35 dollars per week." My next question. "Then it's 35 dollars a week or 140 dollars per month? Answer. Yes. Question. Do you have any other source of income? Answer. I have a home place that is rented and I have the rent that comes off from that. Question. Could you give me an estimate of your total monthly income, would you mind? Answer. Around 250 dollars." And that was 150 dollar payment.

CHAIRMAN BIDDICK: 150 dollar payment on a 250 dollar income.

MR. TANNER: Here is a letter, this is from the files of the Better Business Bureau, it goes back I believe to 1953 or 1954, which is a very good letter describing the type of sales pressure used, the constant selling within the organization which he points out in this regard to the financial ability of an individual to pay for the lessons. This individual was separated from his wife and supposedly supporting or furnishing child support for 2 children. "According to my check stubs, the last check to my ex-wife in the amount of 75 dollars was made on December 6, 1953. From then until the present day I have made no further payments to her for the simple reason that I don't have the money. Payments for lessons are all that I can handle."

MR. BURNSTEIN: Well, I will say this. Mr. Tanner has ---I think --- has worked on this very efficiently. We had a special meeting on this once before, and we wanted to give him all this information. There may be, and there is no question about it, that there may be isolated situations or many of these situations, but we too are more concerned about things like that than I think even the State of California is concerned. And I

feel this way very strongly about it because this is one of the things why we have implemented and we have this association. Even though this is contrary to everything that the Arthur Murray Dance Studios have ever stood for and tried to enforce, there are instances where things happened that we had no control over because of non-continuous, just constant -- let's say watching this thing, we feel that this is necessary, not that it's necessary because we can't trust these people and they are not reliable people running these studios nor are the employees, but we feel that we owe this to the public by reason of the nature of the contract.

This is why we know that our own internal organization that is about to be formed, will be the answer to use psychologically. This is what we will do, there will not be this word you use, "hard sell" and them type of things. This is not right. I agree. To sign somebody up for lessons at 150 dollars a month where credit references or investigation shows he is making 250 dollars a month is absolutely ridiculous. And if I had known about it, or if I had control, this is one of the contracts we would cancel immediately. We would say, look it, don't you want to get out, you can't afford this. And our licensees, I will say this to the Chairman generally, that I know, that I have represented for years, likewise have the same philosophy and the feeling toward this when this is brought to their attention and I think that the cooperation that has been given by the various licensees in this State to any of your Legislative Committees or investigators will corroborate the fact.

And we are willing to submit anything, and as I mentioned, I was the one that mentioned to Mrs. Nelson, and I just intuitively said on this recourse situation, or take the "order" out and on the question of commercial frustration, I said, do you know these things. I gave her a copy, Mr. Chairman, of the trust fund. That is, how much is located at each studio, and how much is being implemented.

I wanted her to have all these things and we want your Committee to have all these things.

CHAIRMAN BIDDICK: Mr. MacBride.

ASSEMBLYMAN MAC BRIDE: What if you did cancel out one

of these franchises, what would happen to the students that had prepaid?

MR. BURNSTEIN: The students who have prepaid will likewise be serviced because we never cancel a franchise without immediately sending in under our formula that we have, you'll see it when we get the license. Either through the efforts of our organization here which is in existence is being implemented, or from New York, a trained licensee or a trained person to immediately step....

CHAIRMAN BIDDICK: Well, you were closed for quite a while here?

MR. BURNSTEIN: Yes, this is the only studio, Mr. Chairman, that I know of that has been closed for any period of time and this is a conflict of many problems that you may or may not be familiar with, but that was a landlord-tenant problem primarily, and other little problems that I believe that we have straightened out satisfactorily and we are gradually strengthening the situation.

CHAIRMAN BIDDICK: How long have they been operating here again in Stockton since they reopened, do you know?

MR. BURNSTEIN: I could find out in a moment. One year? We have never had, Mr. MacBride, that I know of in the State of California, unless Mr. Tanner in his investigation can refresh my memory, tell me this, a frustration or interference with the continuity of a studio that interfered with the taking of lessons by a student.

ASSEMBLYMAN MAC BRIDE: In that community?

MR. BURNSTEIN: In that community, that is right.

CHAIRMAN BIDDICK: Are there any other questions by the Committee Members? Mr. Carrell.

ASSEMBLYMAN CARRELL: Do you think that these abuses more or less are, as we have been hearing about, are more or less because there are a lot of inexperienced people business-wise and perhaps maybe under-capitalized?

MR. BURNSTEIN: I would say that --

ASSEMBLYMAN CARRELL: It's not the case in Arthur Murray, of course.

MR. BURNSTEIN: Yes. Mr. Carrell, I would say that unfortunately there are two studios of dancing that are national chains, which I will not mention, that have had various problems of financial problems and they have closed their studios time and time again. I think that on one occasion in the Legislative Workshop report it is mentioned that one of these large chains closed and what happened is that the Arthur Murray Studios, free of charge, took over these lessons and taught these people because they felt that this is something, there is a responsibility in this type of industry.

I agree, Mr. Carrell, that some of these people, not at Arthur Murray, have got into this business and do not know it properly and they are not protected both by the trust fund or by their bond situation you were thinking about. These things are good, in our opinion. We want things like that.

ASSEMBLYMAN CARRELL: Do you think perhaps bonding these people who go into that business would be a good idea?

MR. BURNSTEIN: Well, I would say, sir, I can't say whether or not bonding as such is good. I think that the philosophy of a bond running to the benefit of the studio is a good philosophy. We sincerely believe that creating trust funds of our type, which are cash available or bonds, is the way it should be done; but we would have no particular objection on realistic bonding which would inure to the benefit of the student.

We say that we have already done this and if we use the fund let's say as a security device for the execution by the principal on a bond, why this I think is a very sensible and sound idea.

CHAIRMAN BIDDICK: Mr. Tanner.

MR. TANNER: Mr. Burnstein, just to clarify one question Mr. MacBride asked a little while ago. You indicated that

the instructors were not paid for selling lessons, they were not salesmen? This is something new, is it not ?

MR. BURNSTEIN: I didn't say it that way. Some do not receive commissions. There are some studios that will be, the instructors will receive commissions, but this will be a thing of the past, this is off.

CHAIRMAN BIDDICK: You mean the commissions are as a result of previously entered into contracts?

MR. BURNSTEIN: That is right. We are trying to work this thing out realistically so that you can never say that a particular person whose pedagogical background is dancing instruction has anything to do with the selling of lessons. They should inspire other people on an ethical level if they want to go on, but this is up to the people to decide. But they are not going to be inducing people by talking about selling dancing while they should be teaching them dancing.

We have always insisted on this and Mr. Tanner probably has bumped into situations where a teacher has talked a half hour about selling rather than teaching that half hour.

MR. TANNER: Still you can wind up in this new situation where it's primarily, partially being sellers but somebody else being the closer?

MR. BURNSTEIN: No, this, of course -- I can't argue with the thin line of inspiration and eventual sale. I mean this I agree, I mean, you give them good instruction and you say, after there are proper analyses, does the person want to go on. Who determines this really? If the teacher that is able to handle the student correctly.

MR. TANNER: Well then, part of this is they have you right there and they are dancing you around and they show you just a little bit more of some more advanced steps, but this is something that they can't really give you now because you are just on the bronze course, but if you were signed up for the gold course, then they could give you all these more advanced steps. This is just a little enticement.

MR. BURNSTEIN: This is unusual for teachers, you may have instances where --

MR. TANNER: I have a personal instance.

MR. BURNSTEIN: Maybe you needed the extra instruction, Tom, but I think that is unusual. I mean, you're an unusual guy anyway. No, I say honest, this may have happened to you, but this is an unusual situation and I have tried for years and I think effectively to avoid something like this, Mr. Chairman, and we have told the Federal Trade Commission and they are satisfied that we have effectively tried for years to take on a written agreement to concur and confirm that problem once again.

CHAIRMAN BIDDICK: Well, at this point we are going to conclude the Hearing for today and we will reconvene tomorrow morning at 10:00 o'clock. We have one more full day. Thank you.

(Whereupon the Chairman adjourned at 5:00 P.M.)

FRIDAY, MAY 20, 1960 -- 10:00 A. M.

CHAIRMAN BIDDICK: The meeting will come to order. This is the 2nd day of the hearings by the Sub-Committee of the Assembly Interim Committee on Judiciary-Civil. I wonder if we could have a little order out in the audience, please. I repeat, this is the 2nd day of hearings by the Sub-Committee known as the Sub-Committee on Prepaid Contracts. We are going to have a full hearing this morning and again this afternoon and we will have to adjourn by 4:00 o'clock this afternoon because of the fact that 2 of our members have to catch a plane to Los Angeles. When I say that, I don't want you to think that I am being rude when I sometimes suggest that we keep our presentations to a certain specified number of minutes because we are going to have to try to hear a number of people today and our time is not unlimited.

Yesterday we had the Assistant Attorney General, Howard Jewel; we had Mr. John Dean, Assistant District Attorney, San Francisco District Attorney's Office; Mr. Raymond Lloyd, Federal Trade Commission; Mr. John Sobieski, Commissioner of Corporations, State of California; Mr. Vernon Libby, General Manager, Better Business Bureau of San Francisco; Mr. Robert Betzenderfer, Assistant District Attorney from Contra Costa County; Mr. Gustaveson, the Assistant District Attorney from Riverside County; Mrs. Clark of the Better Business Bureau from Stockton; and we also had representatives of the Arthur Murray Studios, Mr. Dieden and Mr. Burnstein, who made a presentation toward the end of the day.

This is a 7 man Committee. We have with us this morning 4 members of the Committee. On my right, Assemblyman Tom Carrell from San Fernando, Los Angeles County; on the extreme left is Assemblyman Ed Z'berg from Sacramento County; next to him is Howard Thelin from Glendale, Los Angeles County; on my immediate left is Mrs. Bette Coffey, the Committee Secretary; and on the far end of the table is Mr. Jan Stevens, Committee Counsel; and over at the table on the left we have Mr. Fred Lewes; and standing up now is Mr. Tom Tanner of the Legislative Analyst's Office who made the background investigation for us; and at the far end of the table is Mr. John Ingro, Legislative Intern for the Committee under the Ford Foundation Program and Mr. Joe Coomes on the other side of the table who is from the Legislative Counsel's Office who has drafted some sample Legislation for us.

I think that today, first of all, we will call on 2 local people who are here; and I might say for those witnesses who were not here yesterday that we will call on the witnesses to come forward and have a seat in front of the Committee, to give a brief statement. You know the subject under investigation. We are interested in knowing the extent of the alleged abuses. We are interested, too, in knowing of your suggestions for corrective Legislation.

If your statements can be kept to about 10 minutes or so, then we will have time for Committee questioning and you don't need to take all that time, if you don't think it's necessary. I'd like to call on Mr. Al Norris, Assistant District Attorney of San Joaquin County. Mr. Norris.

MR. NORRIS: Thank you, Mr. Chairman. My name is Alvin Norris, Assistant District Attorney from San Joaquin County.

Briefly, my knowledge is basically with regard to the American Health Studios which were here back in 1958. The programs start off with a tremendous high pressure advertising campaign, radio media and newspapers. We had a few complaints basically on high pressure salesmen and misrepresentation until about January of 1959 when the studios closed down or should I say were transferred to this new organization and the question of the transfer fee of 10 dollars was brought up.

At this time we had approximately about 10 to 20 complaints and they all seemed to have one general trend. One general trend of complaint, and that basically is that most of them were of high pressuring into buying lifetime contracts. They would come in on the gimmick of a free trial period over a short term period at ridiculously low prices and then these people would be attempted to be sold these lifetime contracts. copy

But what is very significant, gentlemen, is that these life contracts varied in price from anywhere from 100 dollars to 400 dollars, ~~and this certainly doesn't appear to me to be responsible financial management.~~

Another thing that became apparent is that they went out and seemed to recruit as many memberships as they could without thought of physical capacity to handle these individuals.

I think the impression was left with most that they were to have a 7 day week of availability and after a while they had so much membership that they had to divide it into men and women. Mondays men Tuesdays women and so forth, something of that nature, I am not too sure of the dates.

That in selling these contracts there were many, many irresponsible misrepresentations. They talked about personalized service and they also, on these life contracts, would tell you that: "Well, don't worry about it." "I mean I don't think I can afford this type of contract." "Well, if you can't make it, we will cancel out." And things of that nature.

When we attempted to investigate at a later time, we found this one persistent problem, a turnover in personnel. Which would seem to be that a person or a manager would stay 2 or 3 months, get his cream off of the top and then leave. And the same problem with the personnel. I think, I am not sure about this, but I think the remunerations were a very nominal salary and then the lucrative come-on would be the big commissions you are going to make in selling these life contracts and this induced these people even more so to make these types of representations.

Now, in brief summary, I would say those were the big points that I can say ran through it. This high pressure bit and an attempt at selling life contracts and no fixed prices.

I have looked over your proposals, gentlemen, and I certainly myself favor the one that requires the licensing of personnel and I certainly favor the idea of the corporation permit and definitely a bond. And I believe that there should be a local bond because here was another difficulty that came into being. They would sell these local franchises and you wouldn't know who was responsible, whether it was some fellow in San Mateo or whether it was the people down in Los Angeles or the people in Texas.

I believe there should definitely be a performance bond of some nature to protect these people and I also favor this idea of doing away with life contracts in this field and have them for a definite period of time.

Just one last thought that I may suggest, and I only

suggest it to this Committee. I noticed time and time again, I keep on reiterating this high pressure because complaints both from the people who come in and unofficial complaints in the neighborhood of people I have talked to and that is numerous amounts of people, was this tremendous high pressure; and they particularly seemed to prey upon the old and the lonesome and these people have been psychologically coerced into buying these lifetime contracts that they cannot afford and I believe that there should be some Legislation which should be enacted to allow some sort of delaying mechanism to give these people an opportunity to think about what they have done and probably, not get into the mess they are in.

I realize that we cannot protect the gullible, but I say that in this area, I feel that this practice was abused more than any other field that I have known of. I have been in the District Attorney's Office for 7 years and I have had more complaints in this field than any other field. I mean the dance studios and the health studios, and this type of service contract.

Now just in summation, if I may just pass this out as a thought to this Committee, I would suggest if possible Legislation could be enacted, wherein first, the individual would sign we'll say one of these long-term contracts, that when he signed it, it would not come into final execution for a month or two.

During this period of time it would be required that the headquarters of the particular organization send a verification of the contract to the individual and he in turn confirm it before it becomes final. If he desires to terminate this contract, he may; but at the price of a forfeiture of either 5 percent or 10 percent of the bond or a prorated amount in relation to the monthly basis of the full length of the contract.

That is all I have to say, gentlemen, unless you have some questions.

CHAIRMAN BIDDICK: Thank you very much, Mr. Norris. We have heard some of these same suggestions that you have made embodied in suggested statutes and Arthur Murray also, as a matter of self policing, apparently is putting in a sort of cooling off period, cancellation clause, and also providing again

suggest it to this Committee. I noticed time and time again, I keep on reiterating this high pressure because complaints both from the people who come in and unofficial complaints in the neighborhood of people I have talked to and that is numerous amounts of people, was this tremendous high pressure; and they particularly seemed to prey upon the old and the lonesome and these people have been psychologically coerced into buying these lifetime contracts that they cannot afford and I believe that there should be some Legislation which should be enacted to allow some sort of delaying mechanism to give these people an opportunity to think about what they have done and probably, not get into the mess they are in.

I realize that we cannot protect the gullible, but I say that in this area, I feel that this practice was abused more than any other field that I have known of. I have been in the District Attorney's Office for 7 years and I have had more complaints in this field than any other field. I mean the dance studios and the health studios, and this type of service contract.

Now just in summation, if I may just pass this out as a thought to this Committee, I would suggest if possible Legislation could be enacted, wherein first, the individual would sign we'll say one of these long-term contracts, that when he signed it, it would not come into final execution for a month or two.

During this period of time it would be required that the headquarters of the particular organization send a verification of the contract to the individual and he in turn confirm it before it becomes final. If he desires to terminate this contract, he may; but at the price of a forfeiture of either 5 percent or 10 percent of the bond or a prorated amount in relation to the monthly basis of the full length of the contract.

That is all I have to say, gentlemen, unless you have some questions.

CHAIRMAN BIDDICK: Thank you very much, Mr. Norris. We have heard some of these same suggestions that you have made embodied in suggested statutes and Arthur Murray also, as a matter of self policing, apparently is putting in a sort of cooling off period, cancellation clause, and also providing again

by the same method for a pro rata refund based upon a schedule and based upon the time involved when the cancellation is sought. These things have also been spelled out in suggested Legislation.

I would take it then from your experience as a prosecutor that you have had many complaints which are impossible for you to deal with under existing criminal laws.

MR. NORRIS: That's quite true.

CHAIRMAN BIDDICK: And it's your feeling that there needs to be something in the way of control over these contracts, or over these studios in order to protect the public?

MR. NORRIS: I certainly do, Mr. Chairman.

CHAIRMAN BIDDICK: Any questions by Members of the Committee? Yes, Mr. Thelin.

ASSEMBLYMAN THELIN: Mr. Norris, do your remarks apply equally to dance and health studios?

MR. NORRIS: I would say primarily, of course, to health studios; but this high pressure I would say applies equally to both.

ASSEMBLYMAN THELIN: And in these cases you don't feel that it's a matter of fraud, apparently?

MR. NORRIS: Let me put it this way. I have strong suspicions, but between proof and suspicion there is a great deal of difficulty. Sir, you have the problem of trying to prove that these people came in here with the primary purpose of defrauding the people. Certainly there were many things that would tend to indicate such things, but the difficulty of proving them -- did they come in here with the intent of only to be here long enough to collect this money and then take off. This is very difficult to prove. We do not have the manpower or the facilities to do it.

We referred it to the Attorney General's Office in the hope of making it a Statewide situation.

ASSEMBLYMAN THELIN: The only problem that occurs to me, your great complaint is about high pressure salesmanship and I really don't know how the Legislature can eliminate that. A cooling off period it seems to me might just delay the time when the high pressure can be applied. Somewheres along the line somebody has got to accept the contract and pressure can be applied at that time.

MR. NORRIS: I agree with you heartily, sir, we can't protect all of the people, but I do believe there is a certain group of people, they get down to these studios, they put them into a corner and they get 2 or 3 people hammering away at them and believe it or not, people do succumb to this type of thing at the time and they go home -- I see it time and time again -- they come in the next week or 2 weeks, and we ask well, why did you sign the contract? I mean, "I just had to get out of there." And another thing, sir, why I suggest a cooling off period, it's going to make a better sale. They are going to worry about the cancellation, they will attempt to make a better sale, there will be less chance of misrepresentation and thirdly, -- I mean this delayed period -- they are going to have to wait for their money, so they are going to hang around a little longer too.

ASSEMBLYMAN THELIN: I have no further questions.

CHAIRMAN BIDDICK: Mr. Z'berg.

ASSEMBLYMAN Z'BERG: Did most of the complaints that you received... were they by people who weren't getting what they were expecting to get before the studio went out of business, or were most of the complaints that you received because the people didn't get what they wanted because the studio went kaput?

MR. NORRIS: Sir, in all honesty I will admit that most of the complaints came in after the studio went kaput, but there were a constant chronic small amount of complaints during the period of time they were in existence. But the great bulk of them came in after the studio went kaput, as you say.

ASSEMBLYMAN Z'BERG: And they had paid their money and weren't able to get any of it back, their money?

MR. NORRIS: That's right.

ASSEMBLYMAN Z'BERG: And you feel that if there was a bond required of the dealer, that the people then could look to the bonding company for the money back on the contract?

MR. NORRIS: That is correct, sir.

ASSEMBLYMAN Z'BERG: Let me ask you just one other question. Do you think that these things that you have been advocating should apply equally well to all prepaid service type contracts, or would you limit it to health studios or dance studios, or would you apply it equally to all prepaid service contracts?

MR. NORRIS: Of course, these things are in your discretion, sir, but I would say at the present time, that naturally you are always concerned in the field you have been burned in and our area here has been the American Health Studios. We have had a lot of people who have lost a lot of money in them, not to use the strong expression of fraud, but it would apply for the present to health and dance studios, because they seem to be the two most prominent ones at this present time.

I realize this is a severe limitation upon business practices and certainly I am not one to advocate more control over business, but for the protection of the public in these two areas, I feel public policy would require Legislation.

ASSEMBLYMAN Z'BERG: Don't you think there are other types of endeavors too which might spring up, giving the same formula, but offering a different service, if you just singled this one out?

MR. NORRIS: You are correct, sir. That crossed my mind too, sir, because there is one other industry that we have had complaints in too and that's the used car dealers. This used car dealers is also another area of tremendous high pressure, and I'd have to admit that this area should be included in that group.

CHAIRMAN BIDDICK: I appreciate your coming, Mr. Norris, thank you very much for your comments.

I think this would be a good time to call upon

Mr. George Spanos, an attorney here in Stockton who is representing some of the people who want to get their money back.

MR. SPANOS: Thank you, Mr. Biddick. Members of the Committee, my name is George G. Spanos, Attorney in Stockton here.

I got involved in this business in my capacity as an attorney primarily from complaints from the local people in regard to the method of obtaining their money from the individual clients and at the time when the health studios closed.

Now, my primary involvement was when the health studios closed, but I received many complaints, and I received many complaints in my capacity as an attorney before they closed, and many of the other attorneys in town also did. The primary complaints were the ones that Mr. Norris mentioned, high pressure. They would come in and they would have some sort of gimmick that they'd give so many free hours of health services and so many hours of free dance lessons or something of that nature, and they'd go in and they would expect to get this free service and before they were finished they would be signed up for 100 dollars, 200 dollars or 300 or 400 dollars worth of services that they had not anticipated or expected.

And I think this cooling off period is a very important factor in this because in my experience, I have seen people come in the very next day and say I don't know how I got into this, but here it is. I didn't want it, but I'm stuck with it. So if you had that cooling off period like you mentioned, that 10 days, 20 days or 30 day period, I am sure that would absolve or get rid of a lot of this difficulty. Because people when they are being high pressured, they are being taken, whether they know it or not they are going to sign, a great percentage of them.

And this cooling off period is very important and I think it will solve a lot of the problems because if you give both the client and the owners of the studios the opportunity to say within a 10, 15 or 30 day period to cancel the contract, then they have an opportunity at their leisure at home to think what they have done and if they still want it, well they have the contract and if they don't want it they can call up the next

day or several days later and say please cancel my contract.

I don't know if you people have been involved in such situations, but I know I have as an attorney; I have been involved in those situations and I know how these people can high pressure you and finally force you practically into signing these things just to get rid of them and it's rough.

Now getting back to the health studio set-up, when the first one closed down, the American Health Studio and Silhouette, I got involved because my relatives had signed up and they had friends and their friends called me up and finally it sort of snow-balled and I was getting anywhere from 5 to 10 phone calls per day from women in town here who had these lifetime membership contracts and had paid anywhere from 50 to 300 dollars and had nothing to show for it.

Immediately thereafter this new Town & Country came in and they requested a 10 dollar or 15 dollar renewal for the old members in order to join in or to accept their life memberships from the old studio and then that studio also went broke, or went bankrupt in a month or two and then it came back again.

So one point I want to just bring up, I don't know if it's been brought up, but one of the directors of the American Health Studio was also a director of the new Town & Country Studio. At least that one person signed the contracts for both the first studio and the second studio, so it seemed to me there was some connection one way or another. Now whether it was a deliberate strategy on their part to form one corporation and then milk everybody dry on them and fold up and start this new one and say well, we need this additional premium in order to keep you going, I am not sure, but it seemed to me that was the procedure they were following.

I don't think I should go into the corrective measures. I think it's been discussed here. I have your pamphlet here and it has some very good suggestions here and this cooling off period to me seems to be a very excellent one. I think this investigation is very timely and very necessary and I think something should be done.

As attorneys, our problems are easy if the people are

still in business. When you have something like this and the people are still in business in town or wherever they are at we have had very good success, (I know I have and I know most of the attorneys in town have) when you call them up and write them a letter and say that these people have been high pressured and we refuse to acknowledge the contract and, therefore, if you want to sue please bring the paper to this office, and that's usually the end of it, but when they have paid money in advance and these studios go broke and are in Texas going bankrupt or somewhere else, there just aren't any facilities to recover their money.

CHAIRMAN BIDDICK: We have a primarily different situation in the health studios than in the dance studios. The health studio is a matter generally as we have seen here in Stockton, the studio coming in and not being financially solvent, going out of business. In the case of the dance studios it's the question of the long-term contracts -- they are no longer called lifetime contracts but long-term contracts. Of course the Committee is just taking testimony at this time, just trying to hear suggestions and hear the extent of the abuses, but there does seem to be a different type of abuse in the one than in the other and maybe Legislation should not be designed to cover both but there should be some Legislation considered separately. One for the one and one for the other.

I wonder this, Mr. Spanos, you haven't mentioned how many individual people you are representing on this, the Committee would be interested in knowing that.

MR. SPANOS: I would say that at least 30 people contacted me within this period when the studios were going bankrupt or having this trouble and I know that each one that called me had at least several of her friends that were willing to come in and see me too. You know it's one of those situations that one was stuck and she had 4 or 5 friends and each of those had several friends. It was just a snowball effect, naturally I could have represented close to 100 people just by getting each one and saying well now you and your friends, if you want to come in or give your names, and that type of effect.

I could have had just in my office alone, I don't know how many other offices, I could have had 100 people from the City of Stockton alone that were involved in this type of situation.

Like Mr. Norris said, it was not for a standard amount, it was anything they could get. Some lifetime memberships were given for 50 dollars, some for 300 dollars. It wasn't a question of age or anything else. Some of them put it to the effect that if they sold so many memberships they would get a free membership and all of those types of methods of getting these memberships.

CHAIRMAN BIDDICK: Have you been very successful in -- I know you are successful as an attorney -- but in this particular thing, have you had much success in recovering any money?

MR. SPANOS: No. Like you say, when they are present here in the City and still operating your job is much simpler, but if they just fold up and slip away and they are incorporated in the State of Texas and are going bankrupt over there, it becomes too immense a job for a local attorney to do any investigating in trying to locate any of the parties and in trying to locate any of the money.

I brought the matter to the attention of the District Attorney's Office here in San Joaquin County and in cooperation with them we contacted the State Attorney General's Office and the Corporations Commissioner, in order to apprise them of the situation to see what they could do from that standpoint, but from the local standpoint I think it was practically hopeless for myself or anyone else to try to gain satisfaction for my client.

CHAIRMAN BIDDICK: Well, as a result of many attorneys such as you contacting many of the District Attorneys and the Better Business Bureaus and they in turn contacting the Corporations Commissioner and the Attorney General's Office, these hearings are being held. This is just an example of how the interest developed in having such a hearing.

MR. SPANOS: Well, you can just picture the number of people that had been involved in this type of situation. Of course, granted it's only 5 dollars, 10, 20 dollars per person, but when you figure thousands and thousands of people that are involved, it adds up to a lot of money. I don't know what the amount that they collected in Stockton was, but certainly in the period of time they were operating they certainly had no reason to go bankrupt because they cleaned this town out. I mean

they just squeezed it dry in my opinion. In my humble opinion. That is all I have.

CHAIRMAN BIDDICK: Any questions by Committee Members? Thank you very much, Mr. Spanos. We appreciate your coming here.

We had on our list of witnesses yesterday Mr. Tom Tanner who is the Investigator for the Legislative Analyst's Office and I think that it would be well if we had Tom's testimony. He is the Investigator who spent some weeks on this collecting information and investigating Statewide. So, Tom, as you know, we could spend the rest of the day hearing the facts that you have investigated, but will you just give us what you think would be the most appropriate facts. Tom Tanner.

MR. TANNER: My full name is Thomas L. Tanner, Jr. I am Associate Administrative Analyst with the Legislative Analyst's Office.

The investigation into the dance and health studio field took me into the Counties of Riverside, San Diego, San Francisco, San Mateo, Marin, Alameda, Contra Costa and San Joaquin. In connection with the health studios, one of the major abuses in this business is in regard to the instability and failure of some of the organizations in this field of endeavor.

The prime example of this situation is demonstrated by the American Health Studio organization. This organization operated on an international level having gymnasiums in this country as well as Canada and it was represented by the organization also to have studios in Mexico and England.

The organization development in this operation will be more fully explained by subsequent witnesses or prior witnesses which we had yesterday.

This organization operated two somewhat separate groups of gymnasiums although frequently combined at the same studio. The American Health Studio was for males and the so-called Silhouette - Figure Form International was for women. The organization operated in California for approximately 2 years beginning in about 1957. The studios were located throughout the State, there being 29 studios located in the Greater San Francisco Bay Area and outlying areas of Northern California. There are also numerous studios in other areas of the State. Each studio reportedly grossed between 15 to 30,000 dollars a month. In one statement made to Dun & Bradstreet by Raymond Wilson, President of the parent corporation, his Suburban Studio located in the Suburban Shopping Center would average about 20 to 25,000 dollars a month, and his downtown studios about 15 to 20,000 dollars a month, whereas he claims that the rent payments for the downtown studios would average 3 to 400 dollars a month, the Suburban Shopping Center's rent would average somewhere between 5 and 600 dollars a month.

The memberships sold varied greatly in price according to what the traffic would bear. The advertised price usually in the gymnasium for the lifetime membership was approximately, was

listed at around 300 dollars, but they were constantly having special deals. Last chance offers and so forth, and if you were a little hard nosed about it they would drop the price down anywhere to about 30 dollars cash. They had a great interest in obtaining cash as quickly as possible.

A 1 year membership for instance would vary from approximately 20 to 100 dollars while the life membership would also vary from 30 to 100 dollars. The average price for a life membership in Southern California seemed to range from 60 to 70 dollars. Northern California seemed to run a little higher, closer to 100 to 120 dollars for a life membership. They had several types of life memberships. They had the regular type of life membership for approximately from 60 to 125 dollars and then they had what they called the executive life membership. This executive life membership gives you full use of the gymnasiums at any time you so desired to use them, at least that's what they represented. In some studios it was later changed and they had to have some nights for men and some nights for women.

But in addition to this full use of the gym being available, you also got, in these life memberships, proteins and vitamin supplies free, towels, sun lamps, when they didn't have a quarter machine operation on the sun lamps. Sometimes they threw in massages, but generally they charged something like 50 dollars a year for 52 massages. In this respect there were a number of complaints in the Better Business Bureaus throughout the State and with the District Attorneys' Offices and other sources that these facilities, although promised on advertisements and television, radio and newspapers, these facilities were not always available and the excuses given were well, this is a new gym and the facilities will be added.

A lot of times contracts were sold on the basis of one of the inducements being that there would be a swimming pool available. When the person joined, the swimming pool never developed. Or they would join primarily because they wanted to have use of the steam bath or massages. Well, the steam bath became inoperative and was rarely ever fixed, the masseur would quit and they would fail to supply another one. The people were offered baby sitting services and they would be available for a while and then this became too expensive.

The same thing happened to the vitamins and proteins. These also evidently became too expensive for the company to supply on these cheap memberships they were selling so that these were cut off. It was reported in the San Francisco area alone that when the Town & Country organization took over from American Health there was approximately a liability of 250,000 dollars for vitamins and proteins which had been contracted for by individuals but which had not been supplied by the company.

The primary purpose of this organization appeared to be to sell as many contracts as possible. I can back this statement up with an interview I had with at least one of the former employees of this organization in which he indicated that as an instructor they were constantly pressured into selling more and more memberships. That they would start an individual with a short term membership and each visit he would be constantly persuaded and encouraged and asked to buy another membership. One of the type of things that was constantly used was, "well, this is the last chance that you have. The District Director has made available a couple of special memberships which we can allow for 35 dollars cash for life time use of this gym." Well, for someone who has already paid 50 or 60 dollars for a year's membership, a lifetime membership for an additional 25 or 30 dollars is very attractive, especially if this is the last chance you can get, if you can only get it tonight alone. Tomorrow is too late. Or if the woman would object saying well I should like to talk to my husband about this situation first, they would say, "well, if your husband don't agree, just call us up tomorrow, that'll be the end of it, you don't have to pay anything. We will cancel the contract." When the call was made subsequently to the gym that either the husband or sometimes the doctor for medical reasons said no you shouldn't take this exercise, or I don't want you to take this exercise, the manager would always reply, it's out of my hands, the contract has been sent to the parent organization. This complaint also applied to some of the other gym activities in the State, not only American Health and Silhouette.

This organization, on selling a membership to an individual, handled all transactions out of the Houston, Texas office. To clarify a little bit the organizational set-up of this operation, it started primarily by Mr. Ray Wilson in Salt Lake City, Utah in 1956 when he had several gymnasiums. He went to Indianapolis and he became acquainted with Alan Stephan, who

also had some gyms in that area. They merged and then started a rapid expansion program. They first hit California in 1957, I believe started in the Southern part of the State, but rapidly expanded that year throughout the State of California. The studios would either be incorporated individually or in groups of 2 or 3, maybe sometimes a few more in Texas.

The Texas -- most of all the studios in this operation were Texas corporations. And about 1958 they formed a Delaware Corporation which was primarily a holding corporation inasmuch as Ray Wilson had the majority interest in most of these Texas corporations operating in California.

The complaints against this organization included charges of inadequate facilities caused by over-selling of memberships. There was no limitation on the number of memberships that could be sold by a gym, apparently, from the information I have been able to develop. It was just a matter of selling as much as you can: if the people had to wait an hour, 45 minutes or so to use a piece of equipment, that was just considered tough luck. If they didn't like it they could quit. The attitude of the organization, according to this witness that I talked to was this: they felt that the majority of the people, at least 50 per cent of the people, would drop out of the organization within 6 weeks, and that within 3 months, 90 per cent of the people would drop out of the organization, primarily through over-selling and poor and inadequate instruction.

I talked to several people who said they received so much high pressure, they waited for so long for the use of the equipment or the facilities were so poor and inadequate, the instruction was nil that they just discontinued going to this organization.

So this probably explains to some extent how they expected to continue operation at least for a period of time by selling these low price memberships. It was because they expected a rapid turnover. As to the pressure, this individual also told me at one time that they, the sales manager or the gym manager, kept a model truck and trailer ready on his desk. I asked him what was the purpose of this and he said that this would be a constant reminder to the instructors who were actually the salesmen that the person, the client, if he tried to get out of the gym without

signing up that night, might get hit by a truck and not return.

As previously stated, the primary complaint from the point of view of the volume was due to the closing of the studios with a large number of persons having services due for which they had already paid. Now, the pattern here in this organization is apparent throughout the State of California in 2 separate general areas as well as in other areas of the United States, as well as Canada.

The local organization, or the American Health organization, apparently began getting into financial difficulties in the Fall or the late part of 1958. In February, 1959 they went into bankruptcy in Houston, Texas. Immediately in the Southern California area an organization of local individuals, supposedly, took over the operation of these gymnasiums. They started charging a transfer fee to honor the memberships from the prior organization. This operation continued for 5 or 6 months and went into bankruptcy.

In Northern California the same thing. Both Northern and Southern California, some of the individuals who were directors or leaders or regional managers and so forth of the former American Health - Silhouette organization were directors or leaders or prime movers of the subsequent organization. This same thing happened in Calgary, Canada. This same thing happened in Texas and Ohio, and other sections of the Country as well as Sacramento. I have read Better Business reports from these other sections.

The American Health Studio and Silhouette organization went into bankruptcy in Texas in 1959 as I have stated. The subsequent group immediately upon taking over from the American Health organization, (and as explained to you by Mr. Dean yesterday, there is even some doubt as to whether they had actually consummated a sale or purchase of the gyms from the American Health organization inasmuch as nothing was actually paid) -- this group immediately began contacting the members of the prior organization offering substantial discounts for payment in cash of their accounts and also offering to accept them as members in the new organization upon the payment of a transfer

fee. This transfer fee also applied to paid up members of the prior organization. The subsequent organizations operated over 5 to 6 months collecting transfer fees and selling memberships, then it went into bankruptcy also. As previously stated it appears that the same pattern of operations followed not only throughout the State but also in other areas of the United States and Canada. In connection with this, there is not only the large number of complaints registered with Better Business Bureaus and Sheriffs' Offices in the various areas throughout the State concerning the individual loss of maybe anywhere from 50, 60 to 200, 300 dollars which they had already paid and for which services they could not receive now due to the closing of the studio, or in some cases where they had signed a time payment contract, they were still making payments on these things, and were not receiving services; but we have the suppliers and so forth that were dealing with these organizations. They were out tremendous amounts.

There is an organization, a gym equipment organization in Oakland which had sold equipment to this organization.

It might be noted that the organization leased its premises, bought the equipment, at least in this instance on credit. When they went out of business, this individual, for the equipment he had sold them, lost approximately somewhere between 50 to 80,000 dollars; I am not sure of this figure now. And he subsequently, I understand, went into bankruptcy also. Whether this had anything to do with it or not is only conjecture on my part.

But then there were others. This equipment for instance, that was purchased on time; chattel mortgages were issued on this by the organization to lending institutions to obtain loans from them and then the accounts receivable were also sold to a financial institution to get cash; cash immediately going to Texas. Very little or none of it being retained in this State and all the bills, even down to the local utility bills were paid out of Texas.

Another loss, example of loss due to closing a studio can be demonstrated by the Stauffer Salon situation in the San Diego Area. This is not a problem of the Nationwide organization but that of a particular franchiser. He was having

trouble with the parent organization. He operated 6 studios, three of them in San Diego, 3 of them in Los Angeles. He was failing to pay, according to the complaint filed in the U. S. District Court in Los Angeles, he failed to pay something like 30,000 dollars for royalties to the parent organization, so naturally they pulled his franchise. So this left a lot of people with services due them in the area, services which they could not receive.

It is nice to report that in this case that the National company, at least to those persons who complained to Better Business Bureaus and to the District Attorney's Office, offered to make a refund of the amount paid, or a portion of the amount paid for services due to the individual, either in the form of having them go to other Stauffer Salons in the area or to obtain a reduced price on a home course plus a reduced price on their vibrating couch.

Another example of customer loss due to closing of a studio with membership outstanding is exemplified by the Jack LaLanne situation over in Antioch which was touched on yesterday. Customers' complaints apparently are not limited in this field merely to the premature closing of studios. Complaints registered by former gym customers to Better Business Bureaus and District Attorneys' Offices and other sources include allegations of high pressure and constant sales efforts. Inadequate facilities and instruction, various prices charged for the same service, failure to provide services and products contracted for, misleading advertising, misrepresentation and so forth.

Another abuse to the public which bears specific mentioning is in the nature of the financing of such services. The usual practice of such organizations is to obtain a contract from the customer for an extended period of use of the gym. These contracts are then discounted to financial institutions. Usually a negotiable instrument is used which, being transferred to a holder in due course, probably prevents raising a defense of failure of consideration when the studio closes its doors.

In a number of instances involving one organization, many clients received duns from collection agencies on contracts which they understood had been cancelled several years previously. There have also been several complaints filed with

Better Business Bureaus by persons who claimed they had never signed contracts with the health studio involved.

As an example that comes to mind of this situation, in the San Diego area a woman went to a salon in La Jolla. She went with a neighbor, just going along for a visit. The neighbor wanted to buy an additional bottle of this food supplement which was part of the course of training, the reducing course that she was engaged in at the salon. The neighbor, the complainant, was just going along for the ride and for the visit to the studio. They told the other woman that she could not purchase more than one bottle of this food supplement at one time, so the arrangement was made that the friend would buy the additional one for her, so they handed her a paper to sign which would acknowledge that she had purchased this bottle of food supplement.

This woman at the time was suffering from extreme high blood pressure and as she indicated to me that she could not even read bill boards, so naturally she could not read the small print on this contract. She signed under these representations that she was signing for this bottle of food supplement. She actually signed up for 130 dollar course of treatments, but nothing was done at that time.

But 2 years later, after the studio had closed, this was one of the contracts that was sold to a collection agency and on which collection was attempted. This is in the hands of an attorney in San Diego at the present time. There was also a case here in Stockton just along the same lines, of a girl who is legally blind, according to her statement made to the Better Business Bureau, having vision of something like 20-300 or something like that, 20-200, and she signed a contract on the representation that this was an acknowledgment that she had visited the gym. It actually turned out to be a contract.

Sales pressure of pitches used in this field include misleading advertising. This takes the form of offering services for some figure, for example, 2 dollars. It leaves the impression that this is a weekly rate. This is in newspaper advertisements and sometimes television. When a prospect responds to the ad, he learns that this weekly rate does apply, but it is necessary to sign a contract for an extended period of membership

and the facilities cannot be used on a week-to-week basis at a set rate per week.

The organizations also used the telephone quiz or television advertising survey gimmick to lure the unwary to the studios. These take the guise of a contest or advertising offer, and it was reported to the writer that almost any answer would win, even the prize introductory course or consolation prize of a lesser degree of a free introductory course. I stated that almost anyone could win something on these quizzes. As it was reported to the writer, the ... solicitors were instructed to keep away from Negro and other minority groups, but if they should contact such an individual, the latter could not win regardless of the answer. I have also been advised that when a Negro, when these complaints have been issued, found by the Better Business Bureau, at least one witness has told me that when a Negro or some of these other minority groups would appear at the gym, the prices would be boosted up sky high.

Upon coming to the gym, the individual would be subjected to high pressure sales techniques; verbal persuasion to induce the purchase of a membership. It has been reported that this sometimes took the form of a statement that if the husband or a doctor did not approve of the person taking the course, the contract would be cancelled. All contracts are non-cancellable. Later, the individual would be told that they had signed a binding contract and nothing could be done about it. In fairness to one organization still operating in this field, it may be stated that on a number of occasions, when such situations were brought to their attention by District Attorneys or Better Business Bureaus, adjustments of the claims have been made. The sales talk generally took the form of persuading the individual that exercises would be beneficial to them. While possibly true, this probably became an abusive, constant, insistent sales pitch. I have had a number of people tell me that they quit going to these gyms because even after they had signed up for say a year's membership, they were constantly being pressured to sign up for additional membership.

For example, they would attempt to and probably did persuade many women that an attractive figure would improve their relationship with their husbands and visa versa. Probably the most generally used sales pitch, especially with regard to the

American Health-Silhouette Organization was a special discount or last chance offer.

For instance, after quoting one price to an existing member to whom they were attempting to sell a longer membership or to a new prospect, upon receiving a negative reply, they would offer the same membership at a reduced rate which was made available by the District Manager in limited supply, usually 1 or 2 for advertising purposes. This offer had to be accepted within a limited time and usually that day.

To someone who had paid approximately 60 dollars, as I said before, or more for a 1 year membership, this was an attractive offer. At least in the case of the American Health-Silhouette Organization, this special offer was reportedly offered to everyone. And in closing statements, this organization followed the sale of life time contracts with another offer within a few days with another discount for immediate cash payment. The volume of business done by this organization has been reported to have been very substantial.

And in connection with dance studios, there appeared to be 2 major problems of alleged customer abuse in the dance studio field.

The first is the use of misleading advertising and the use of the telephone quiz gimmick to lure individuals to have dance lessons. A response to this free dance offer by the unwary is used as an excuse to use other high pressure sales tactics to induce signatures to dance course contracts. These contracts are also non-cancellable.

It is to be noted that studio employees receive a commission on their sales. It has been reported that the free dance course is used primarily to persuade individuals by flattery, appeals to the vanity, appeals to individuals for social success and so forth, to sign for additional courses of instruction. Sales pressure and persuasion does not end after a contract is signed, but is actually stepped up to induce signatures on additional contracts. This leads to the second major abuse, which is the selling of the long-term life contracts to successful and elderly people.

In some instances several, life time contracts were sold to the same person. To clarify this, it is to be noted that a life time contract consists of approximately 1200 hours of instruction to be given over a 10 year period with 2 hours of instruction per month per life. The price charged is approximately 12,000 dollars and in several cases persons have paid or contracted to pay in excess of 25,000 dollars.

Some of these persons were of an age that by their normal life expectancy would not have completed the 10 year course. A specific example of such cases will be made a part of the record later in this hearing.

Several of the non-cancellable contracts I furnished this Committee have been cancelled, through the intervention of attorneys.

CHAIRMAN BIDDICK: Thank you very much, Mr. Tanner. Does the Committee have any questions to ask Mr. Tanner? I might say that part of our report when we prepare it will include a more complete summary of all that he has gone through. As you can see we could be here for several weeks if we wanted to hear all the information he has collected. If not, then, Tom, we will excuse you at this time. Thank you very much.

Now, we are going to hear several law enforcement people that are here. I will call them in the order that we have them. We hope to adhere to our schedule. We will take about a 5 minute recess at this time.

(Whereupon the Chairman recessed briefly at 11:00 A.M.)

CHAIRMAN BIDDICK: The meeting will come to order. I'd like at this time to call on Mr. Roger Garety, Assistant District Attorney from Marin County. He has had some interesting experiences in this field and I believe has had a successful prosecution in these fraud cases, so we would very much like to hear about the experience over in Marin County.

MR. GARETY: Thank you, Mr. Biddick, thank you for the invitation. My name is Roger Garety, I am Assistant District Attorney of Marin County.

As far as our involvement with the health studios and dance studios, I would say as to the latter, we have had practically no complaints. I can recall of only one concerning a dance studio. With the health studios we had a brief experience with American Health-Silhouette, a franchise allegedly from Jack LaLanne, but those organizations stay just long enough to take money from our citizens for services that they didn't return.

I have had considerable dealings with the customers or clients of the Vic Tanny organization and during the few years which this gym has been in existence in San Rafael, we have had scores of complaints. These have run the gamut. Probably the most dangerous and vicious has been the representation, in fact, it was called a guarantee in a couple of instances, that the prospects would be cured of their physical ills and ailments, were told that they would guarantee that their doctors would not object to the program.

In this one instance where we were able to initiate a prosecution and successfully so, one woman was suffering from high blood pressure, the other from a back ailment as well as a female disorder, and in both instances her doctor told us and later testified that her condition was worsened as a result of engaging in the program of the gym.

We have had complaints based on misrepresentation as to facilities, free massages, free use of the sun room. In a couple of instances the patrons were told that if they got their children into the act, the swimming pools would be available for free. It so happened that there weren't any swimming pools, none in San Francisco and when this was brought to their attention, one manager said, "well, you are free to go to Stockton

if you like." And that's just a trifle inconvenient from Marin. One lady was brought in there on the pretext of a job. She had no desire to sign up for the program but was told that unless she took out a life membership she couldn't get the job.

We had the unfortunate spectacle of a young woman who had been released just a year previously from Eldridge, from Sonoma State Home, who was brought into the gym and I am sure she would have signed anything that they presented to her. She signed a life membership contract. That one, when brought to their attention, the home office agreed to cancel.

We've become convinced that our criminal laws do not meet this situation. In fact the managers, the people who sign people to contracts, take particular pains to insure that these conferences are in private with just the prospect and the person making the pitch and as you know, in order to have a successful prosecution there must be corroboration of a false pretense and these people know that. In the one instance where we did have corroboration, and that concerned the lady who was told that her back would be cured, we were able to secure a conviction.

By far the main complaint has been the one which already has been aired before your Committee, namely oral representations of one kind at variance with the written contract, particularly along these lines. "If your husband doesn't approve of this, you just tear the contract up and we'll forget all about it." By the time the lady gets back to the gym, there has been a new manager installed, the man with whom she dealt is some place else, the contract is in Santa Monica, and the next step is a sheet of paper in which they are told that if they don't want their automobile, salary and personal property attached, they had better pay.

We have had an instance or two where to try to placate the aggrieved customer romantic overtures were made. The ladies were told, "well, come on out and have a beer with us and we will talk this thing over in private." That didn't succeed in that particular instance.

As far as a recommendation, I don't know that it's particularly my field, but I would urge the consideration of close control of these organizations. It seems to me that the treatment that people get will be no better than the caliber of

the quality of the persons who administer these contracts. It seems to me at least that licensing and close control of these organizations will help the public because in almost every instance that I have observed, it has been the person of very moderate means, the unsuspecting, gullible individual who has been taken and I think those are the people that we have to give some protection to.

CHAIRMAN BIDDICK: Mr. Garety, do you have any idea of the number, total number, of complaints that have reached your office on health studios?

MR. GARETY: We had a good many complaints, I'd say 30 to 40 concerning American Health-Silhouette; this Jack LaLanne situation. Those were over a very short period of time. As far as this other organization I mentioned, I think conservatively we have had 35 or 40 complaints.

CHAIRMAN BIDDICK: Do you have other privately operated health studios in Marin County to your knowledge, concerning which you had no complaints?

MR. GARETY: Well, I have never received a complaint, for example, concerning Stauffer. I don't know whether that would come under the heading that you have in mind. We have had Stauffer in San Rafael, we had these others that went out of business. The only one that comes to my attention is Vic Tanny.

ASSEMBLYMAN CARRELL: Is Vic Tanny still operating there in Marin County?

MR. GARETY: Yes, it is.

CHAIRMAN BIDDICK: Your remarks for the necessity of close regulation, which remarks incidentally have been made by other law enforcement people, would you extend those to the dance studios based upon your experience or would your recommendation be limited to this sort of regulation in the case of health studios only?

MR. GARETY: I would have to limit my recommendation to health studios because I haven't had the experience with the dance studios. We have had one complaint to my knowledge and

that was remedied by the representative of the Arthur Murray chain.

CHAIRMAN BIDDICK: Was that a long-term contract cancellation, or do you remember?

MR. GARETY: Yes, this was an instance of a young man with a salary of about 275 dollars per month who signed up on a moderate plan for lessons that were good for him, but after being there on a couple of occasions he was told that he could be an instructor eventually, that he would appear on television plus some other representations and he put his signature on a contract for about 1250 dollars.

When this was discussed with one of the representatives of the dance studio, it was agreed that the second contract would be cancelled. He stayed on with the first one and was apparently happy with it.

CHAIRMAN BIDDICK: Any members of the Committee have any questions? Mr. Z'berg.

ASSEMBLYMAN Z'BERG: One of the witnesses we had, I believe it was the Attorney from Stockton here earlier, indicated that in the situations where the health studio or dance studio -- whatever it was, was still in existence, most of the people could get satisfaction because they had a civil remedy. Now, have you found that in the Vic Tanny complaints that you received that the people have been able to get satisfaction because the studio is still in operation, or have they been unable to solve their problems even though they are still in operation?

MR. GARETY: The only instances to my knowledge where satisfaction has been received by people is where there were cases where we felt there was fraud, false pretenses involved, so that we had color of jurisdiction to get interested in it. But aside from that I would answer no because most of these people either were unable or unwilling to seek legal counsel. I'd say most of them don't have the means to. They are wives of servicemen, for example, men who are told that their commanding officer will be contacted or they will be people in salaried positions whose employers would take a very dim view of an attachment or garnishment.

I wouldn't say that they received satisfaction at all except in the instance I mentioned.

ASSEMBLYMAN Z'BERG: Now, do you think the people engaged in the health studios, if, we will say, some Legislation comes about to regulate the health studios so that it's a clean, complete operation all the way through, do you think it will take care of the situation as far as these people are concerned, or do you think that the people who are in health studios would just move over into some other fields? That they are promoters in this field because it's a good field now and if this one doesn't pan out, that they will go over to the prepaid roller skating rink contracts or something else?

MR. GARETY: I would say very likely that they wouldn't restrict themselves just to the health studios.

ASSEMBLYMAN Z'BERG: So do you think then that if any Legislation were contemplated, that it shouldn't necessarily be limited or directly specified against any one industry, but should be general in nature to take care of, we'll say some other anticipated type of operation along the same lines?

MR. GARETY: It would seem to me desirable, but again I can't comment from experience, I don't want to label anybody that way since I haven't had the experience. I know, for example, the suede shoe boys have operated in the siding business along the same lines that we have discussed with the health studios. We had it to a lesser extent in the vacuum cleaner business, with automobiles on the referral racket.

I agree with you, it's certainly not restricted to the health studio.

CHAIRMAN BIDDICK: We have the trampoline centers now, but apparently they are not operated on a prepaid basis. You pay your money and you takes your jumps. So I think it's the prepaid aspect that we are concerned about. There will always be ads of one thing or another, and there will always be health studios that operate legitimate services; we are not concerned with this feature.

MR. GARETY: I might comment that several of the people

with whom I talked were quite happy with the facilities and the services that the studios had to offer, if they would just approach it in a conscionable way.

CHAIRMAN BIDDICKS: Mr. Carrell.

ASSEMBLYMAN CARRELL: Do you think that perhaps these contracts should be limited to a certain length of time, perhaps no more long-term life contracts, maybe limited to a year, six months, something like that?

MR. GARETY: It seems to me, and this is no novel thought, that these so-called life memberships are just an illusion, a snare. How they can guarantee to perform for someone's life? I think they should be eliminated, the so-called life-time contracts.

CHAIRMAN BIDDICKS: Any other questions by the Committee? Thank you very much, Mr. Garety. Is Mr. Cecil Candler here from San Diego? John, do you see him?

MR. INGRO: He hasn't confirmed one way or the other.

CHAIRMAN BIDDICKS: I understand that we have several representatives here, that Mr. Sorenson from the San Mateo District Attorney's Office is not here, but he has some representatives. You gentlemen, will you both come forward and identify yourselves.

MR. CAREY: My name is Robert E. Carey, C-a-r-e-y, Chief Deputy District Attorney for Mr. Keith Sorenson, District Attorney of San Mateo County. With me is Mr. Clarence Knight, Deputy District Attorney in our office who has been primarily engaged in trying cases and investigating matters of this type.

First, may I say for Mr. Sorenson, he was supposed to be here himself today and he unfortunately had another appearance dealing with the Aid to Needy Children Program and asked that we come here. He asked that I express to the Committee his thanks for affording him the opportunity of appearing. May I also preface my remarks by saying that in the past we have had the cooperation of the San Francisco District Attorney's Office and the Attorney General's Office in going over the particular problem you have. I see by the schedule that you have already heard from Mr. Howard Jewel, from the Attorney General's Office and you have already heard from Mr. John Dean, San Francisco District Attorney's Office.

I might preface my remarks by saying that we have appreciated their cooperation and most likely their views would encompass much of what I have to say; therefore, I will keep my remarks necessarily brief in that regard.

We have also had the cooperation of the Corporations Commissioner's Office, Mr. Frank Ryan, and have also had the opportunity of meeting Mr. Tanner, who today has appeared before you and covered the situation in a general way.

Now, our basic problem in San Mateo County can stem from the fact that the headquarters for these various outfits, (and Mr. Tanner has talked to a great number of them), were situated in our County and therefore we have had a direct control, or not direct control, but direct contact with them. Secondly, I think the basic problem that we have had has been that of a prepaid service contract and the need we have seen has been to protect the investment of the generally small endowed investor in the type of contract which is sold by these various prepaid service companies that move into the area.

We have noted generally as Mr. Tanner pointed out to you, that it's a concealed or clouded ownership, that there is out-of-state control, and that this leads to, peculiarly on the

MR. CAREY: My name is Robert E. Carey, C-a-r-e-y, Chief Deputy District Attorney for Mr. Keith Sorenson, District Attorney of San Mateo County. With me is Mr. Clarence Knight, Deputy District Attorney in our office who has been primarily engaged in trying cases and investigating matters of this type.

First, may I say for Mr. Sorenson, he was supposed to be here himself today and he unfortunately had another appearance dealing with the Aid to Needy Children Program and asked that we come here. He asked that I express to the Committee his thanks for affording him the opportunity of appearing. May I also preface my remarks by saying that in the past we have had the cooperation of the San Francisco District Attorney's Office and the Attorney General's Office in going over the particular problem you have. I see by the schedule that you have already heard from Mr. Howard Jewel, from the Attorney General's Office and you have already heard from Mr. John Dean, San Francisco District Attorney's Office.

I might preface my remarks by saying that we have appreciated their cooperation and most likely their views would encompass much of what I have to say; therefore, I will keep my remarks necessarily brief in that regard.

We have also had the cooperation of the Corporations Commissioner's Office, Mr. Frank Ryan, and have also had the opportunity of meeting Mr. Tanner, who today has appeared before you and covered the situation in a general way.

Now, our basic problem in San Mateo County can stem from the fact that the headquarters for these various outfits, (and Mr. Tanner has talked to a great number of them), were situated in our County and therefore we have had a direct control, or not direct control, but direct contact with them. Secondly, I think the basic problem that we have had has been that of a prepaid service contract and the need we have seen has been to protect the investment of the generally small endowed investor in the type of contract which is sold by these various prepaid service companies that move into the area.

We have noted generally as Mr. Tanner pointed out to you, that it's a concealed or clouded ownership, that there is out-of-state control, and that this leads to, peculiarly on the

civil side as well as on the criminal side, investigation determining who you proceed against and how you investigate.

Now, the basic problem that we found in our County dealt first of all with the advance fee. The fee, as Mr. Tanner covered. What happened was the one company went out of business and there was -- or not out of business, but sold their assets, but apparently not their liabilities and the person would come down to the studio, found out his membership was affected. Here is the same studio, the same facilities, on the same basis, but a different company and they asked for transfer fees and what eventually happened after they tell them to pay a transfer fee, (if you say you have 2,000 people, maybe a transfer fee of 10 to 15 dollars, a sizeable amount of cash), six weeks later the company is out of business and there they are.

The second basic problem we had were these discounts that were offered these people to buy a longer term contract or discount their present contracts. Many of these people went out and went to the bank and obtained the cash to get the discounts, didn't have any services rendered after a few more weeks and were liable, of course, to whatever lending agency they went to on their contract financing.

Very generally also in this field we found 3 things standing out. Sharp selling practice already has been testified to. The failure to perform in some cases on agreed upon services and particularly the prepaid financing of companies moving up into the field. It has been our general view as to the industry itself, the services they offer, that we find no particular argument from the criminal standpoint in that regard. We don't think that the criminal laws should in any way legislate them out of business and if we could make any recommendations as far as the Civil Laws, (we are not authorities) we don't think that should be done. We have gone very thoroughly over your recommendations, and it is our general feeling that all the recommendations are good, that there may be a question of regulation which is most economical to the State; but if we had a question or priority to offer the Committee, our priority would basically be that you protect the investor on the contract that he signs.

In other words, one of the problems we have had, we think, would be covered by your recommendations on the proposals made on Classification 3 b, c, and d.

Now, the reason I had Mr. Knight here today is that Mr. Knight has covered every case we have had in the office, and he can very generally give you a quick break-down on those. We have had quite a few. Not only has Mr. Knight had the opportunity of going in and becoming a member of one of the studios, he still is engaged in that classification, as far as the present studios in the County are concerned.

So if you don't have any questions, I will let him go ahead and testify. He is not only a Deputy District Attorney who has investigated these matters, but has had his own personal experiences with the studios. Feel free to ask him any questions. Thank you, gentlemen. I give you Mr. Knight.

CHAIRMAN BIDDICK: Thank you very much, Mr. Carey.

MR. KNIGHT: Thank you. As has been said, I have been a Deputy District Attorney for probably some 6 years. I have been interested in and have worked out in various gymnasiums for approximately 15 to 17 years. So when American Health Studios came on the scene, I was very eager, both from a point of view as a Deputy District Attorney and for someone who knows something about the gymnasium field to investigate and to use and see how the operation was running.

I might say, as a matter of prefacing, that our County, we have had difficulties with the prepaid service contract in 3 separate fields. We, of course, have had the American Health Studio which operated in Northern California, branch head in our County; we have had a fair amount of difficulty with the prepaid service contracts involving knitting machines. I don't know whether that has been covered before the Committee or not. Knitting machines.

There have been several abuses covered by this particular service contract on knitting machines. We have also had difficulty with various schools where they sell prepaid service contracts, we even had trouble with them. One of them we exerted so much pressure on that they are no longer in business.

CHAIRMAN BIDDICK: We had our Sub-Committee on Judiciary 2 years ago that went down on the Jet Mechanic School operation.

MR. KNIGHT: That is the one to which I refer.

In regard to the American Health Studios, I would like to say that from my knowledge of the gymnasium business, that before American Health Studios came in California, we were the prime source, the prime leader in the most direct and most populous areas for physical culture. California is looked upon throughout the United States as the prime place where physical culture is practiced. That is agreed to by everybody. There were in California a great many gymnasiums. Many of the gyms specialize in body building, body reducing, many of them we have use weights and weightlifting. And body building exercises.

A great majority of these gymnasiums were legitimate. They were run by individual entrepreneurs who were extremely, in fact almost fanatical about the accomplishment of exercises,

things like that. Most of these people were scrupulously honest.

American Health Studios came in, a big flashy, brassy outfit, literally forced out the little business people either by direct or indirect pressure, took over, absorbed some of these places and began operating business. It's impossible to tell from our investigation whether it was a great fraud in its inception or whether it was basically faulty management. However, the abuses I think you have heard, all of them as I have heard them are true. I have seen most of them take place. In our County we had some 83 separate formal complaints registered in our office against the American Health Studios.

In other words, of all the people who called, and there were a great many more than 83, some 83 individuals were interested enough to come to our office and to fill out a form and write letters to be interviewed regarding their experiences with the American Health Studio. Out of all the information we had, we were unable to prosecute any one for fraud. Although the entire situation, of course, smelled of fraud, and everybody was saying that they had been defrauded, we were unable to institute any prosecution for fraud, much as we wanted to.

I would say that the primary and most appealing violation that we see in these cases; in other words, the thing that most, to most people is the saddest, is the view of the respectable individuals who have signed up for a course of exercises in all good faith, whether they have been high pressured or not, paying for these exercises at a time when the business involved is no longer in existence. We had a good many of the cases involving that. People would sign up for a course of exercises, usually at a reasonable price, they would make a down payment and they would sign notes and contracts which would of course be discounted in order of the course of business to other banks or financial institutions. And a month or two or three months later the business, the healthstudio, was out of business; was defunct, and the individual was still paying for services that he had never received and would never receive.

The great majority of complaints not involving this sort of thing, upon investigation proved that the individual involved had received a great proportion of what he had contracted for at a reasonable price, so that I feel that the great need in

this area..I don't feel that you are ever going to Legislate a way out of the abuses that can take place in this studio or health studio field, but the greatest abuses we saw, particularly with the knitting machine case as well, involved the refinancing and the discounting of the paper involved, where you have the individual who has received a small portion of what he has purchased and never received the rest of it, paying the full price for that article and therefore this is the heart of the kernel, the very center of the inherent abuse of these service contracts because when you buy something and are paying for it on time, you have it. When you contract for services you don't...

CHAIRMAN BIDDICK: That's very concisely expressed. I think that is the difference and that's the reason we are concerned about this. Do we have some questions by members of the Committee? Mr. Thelin.

ASSEMBLYMAN THELIN: Mr. Knight, I was interested in your comments relative to people paying for those services after they are no longer receiving them. I imply from that then that you find the form of contracts used by these people are such that they can be assigned over and then the defenses which are available against the original contracting parties are not available against the assignee?

MR. KNIGHT: That's correct. In virtually all of the American Health Studio contracts we find that in one way or another--they usually employ very devious means--a note is signed. For instance, when I applied myself, I signed and I talked to the man for approximately 2 hours before I signed up just to see what the story was. When he came to signing the membership, which incidentally was purchased at an extremely reasonable price, I purchased this membership at approximately one-fourth of what I knew it was worth. I signed the statement and I noticed on the back a little membership card which was torn off, was actually a note. And I said to him, "what is this, it looks like a note?" And he said, "oh no, that's not a note, that's just a formality." So I said, "if it's a formality, do I have to sign it?" He said, "well, yes, go ahead and sign it." So I signed it. I didn't want to make a big issue of it, so I signed it, but I knew very well it was a note, and I knew very well I would pay, I would be paying to a holder in due course.

ASSEMBLYMAN THELIN: Now, suppose in a case like that where there was a promissory note, even if there were no assignment, possibly couldn't the studio then enforce that note?

MR. KNIGHT: I don't believe, in the absence of an assignment, there would be. They couldn't because you'd have the defense of a lack of consideration or something else.

ASSEMBLYMAN THELIN: Well, of course, you could always use the defense of fraud against a promissory note?

MR. KNIGHT: This is true, but however in most cases --

ASSEMBLYMAN THELIN: Fraud is awfully hard to prove.

MR. KNIGHT: It was borderline fraud.

ASSEMBLYMAN THELIN: Generally it's the total lack of consideration, the consideration failed and that's the defense.

MR. KNIGHT: This is characteristic of the way all these studios work. I talked to one of the managers of one of the local studios, it was a very legitimate place, and I asked him, "do you have any suggestions?" And he said, "well, I'm in favor of any Legislation that will keep the borderline operators out, but I don't want them to put me out of business." I asked him, "what about your financing?" He said, "in order to conduct my business I have to finance these contracts with the bank." And he explained to me that when he takes on a new contract it costs him approximately 40 dollars because he figures his advertising, his instruction. He has to pay the bank 10 dollars and he says that actually he doesn't make any money on his pupils until they have been working out for approximately 4 or 5 months and he's got to discount to a bank to stay in business.

He told me also, incidentally, that he being a legitimate man, all of his paper in the bank, he was a co-indorser. The recourse ran to him and he backed up all the paper, he had a reserve at the bank to cover it.

ASSEMBLYMAN THELIN: Do you feel that we would be making proper Legislation, based on the advice we have here, if we made the assignees in these contracts stand in the shoes of

the assignor?

MR. KNIGHT: I think that if that can be done, without eliminating financing entirely, and, of course, this is the thing, this is, of course, what should be done because this is the big complaint. People have a good defense on a contract and then the individual who he made the contract with is no longer there, he has no assets in this State, but there is some banking institution, either legitimate or borderline, that's dunning him for this.

ASSEMBLYMAN THELIN: Well, of course, we'd have to change the laws of negotiable instruments and then we involve the banks and so forth if we tried to do that. But it seems to me that this is one of the big abuses in the field. I have no further questions, Mr. Chairman.

CHAIRMAN BIDDICK: Mr. Knight, if you were going to recommend a general course of Legislation would you recommend something in the licensing or the permit field or would you recommend Legislation in the form of the contract?

MR. KNIGHT: Well, I have given this matter considerable thought since it came up and I have discussed it with people in the gymnasium business and I unfortunately was unable to discuss this with the people in the banking business.

I think that any of these things would be good, however. If you know anything about the gymnasium business, most of the people engaged in it are not what we call overly business-minded. Your average gym instructor and gym owner is a fellow who himself has worked out for years and usually he has a magnificent physique of his own and there is a general impression that is probably true, and at least in more than half of the cases, that these people are not overly smart.

This is probably one of the reasons they have fronted for these American Health Studios, they have fronted for these people, for these suede shoe boys, and regulation is going to be difficult because these people are going to have trouble even if they are personally legitimate in conforming. And given an awful lot of thought, I think that the thing that will remedy the greatest number of the abuses would be the matter of this

financing. If these people can't finance their contracts easily, they are not going to high pressure their students because if they know the bank is going to have trouble with their paper, the bank is going to stop taking that paper.

If they know or the bank knows that this gym is liable to be out of business, they are going to be awful careful about what gymnasium they finance and as I say, this business cannot be undertaken, as I understand it, without some sort of financing.

CHAIRMAN BIDDICK: But, of course, what I think happens in many of these cases is they don't go to the bank. They have a separate corporation which they themselves form which takes the paper mainly for the purpose of avoiding these defenses and probably they have adequate financing themselves when they are one of these big scale operations.

Now, you are talking about the locally operated man that deals with his own bank, and, of course, that's the sort of fellow that we hope to encourage, but you still have these other people that are using this as a dodge for avoiding their responsibilities.

MR. KNIGHT: Well, this is true, but my suggestions would be that the Committee consider laws along this line. First of all, eliminating these life time contracts which first of all are ridiculous. There is no such thing as a life time membership. It's only as long as the gymnasium is there and as long as the individual is there. I would say a limitation of 1 or 2 years probably the maximum. I think that no legitimate gymnasium needs this financial aid. They can run their business without 5, 10 or 15 year memberships. Secondly, there should be some rather rigid restrictions put on the financing of these contracts. In regard to the American Health Studio that you refer to, this separate organization was set up only in the last days of this business. The financing organization. It was never licensed by California. As soon as we heard about it we called the people in and told them to stop and they did.

CHAIRMAN BIDDICK: Mr. Z'berg.

ASSEMBLYMAN Z'BERG: Let's see, as I gather it, you have two different problems. One is where you pay your money in

advance and the other is when you sign a note?

MR. KNIGHT: Yes.

ASSEMBLYMAN Z'BERG: Now, what Mr. Thelin was talking about, if you could use the personal defense against the finance company, would take care of the situation where you pay a note when they go to dun. But what about the situation when you pay your money in advance, what would you suggest there, that there would be a bond perhaps required of a man engaged in this kind of business?

CHAIRMAN BIDDICK: That doesn't happen too often. Is that too big a problem?

MR. KNIGHT: It can be, but what I was suggesting is that you limit the time you can run these memberships. If you have 1 or 2 year memberships you are not going to find them being able to extract these big membership fees. You tell a man, well this is a life time membership. Incidentally, I might mention that in my investigation of this field I think there are just literally millions of problems that are going to occur in the drafting of this Legislation. Of course, this is a problem involving the Committee because the first thing that one of these people I talked to said, what about the Elks Club, they have the same thing, they have life time memberships? What about cemetery plots, you sign them up for their life time contracts, so there are literally hundreds of facets involved that you are going to have to consider in drafting this Legislation.

CHAIRMAN BIDDICK: Have you seen either our background report or the Stanford University Report?

MR. KNIGHT: I read the background report yesterday.

CHAIRMAN BIDDICK: You can see some of the ideas we have there with regard to Legislation. And also I think it would be well, if in view of your great familiarity in this field if we could make available a copy of the Stanford Report to you. If we have an extra one. We'd like to have you look it over and have your comments on that. They again have an original proposal of their own in there which is quite interesting. Of course, I'll say this, theirs is primarily in the dance field and not in the

health studios, but they do refer to the possibility of health studio regulation too, and they have made a very interesting study.

MR. KNIGHT: If you would like, I could in a couple of minutes touch on this knitting machine proposal which will perhaps bring a new problem.

CHAIRMAN BIDDICK: Mr. Carrell would like to hear about that.

MR. KNIGHT: I had the horrible experience of having 18 ladies come to my office in San Mateo, all of them very irate in my office in San Mateo which is about 10 feet square, and to multiply the situation we had the entrepreneur walk in to this crowd of women and I thought for a while we were going to have a lynching.

But in the knitting machine deal, through advertising, and the telephone medium in the solicitation business, women were sold knitting machines on a prepaid service contract and the knitting machines were sold at approximately 3 to 4 times their actual value. But the gimmick there was that each purchaser of a knitting machine would receive a course of instruction, would be given patterns and then knit on the machine certain garments which would be purchased by the company which sold them the machine. And for a while it looked like a big deal because for a woman with 2 or 3 hours it was a simple thing to make these garments and resell them at a set price to the company, and for a while it worked fine. But then the company went defunct. All the paper had been discounted to a local bank, incidentally, and the one thing that bothers me is that banks aren't too particular who they take their paper from and they had these 18 or 20 women who were legally and financially responsible for making these contracts, being stuck with these knitting machines and no source to sell these garments and no source for instructions. It was a very similar thing to the health studio proposition.

CHAIRMAN BIDDICK: Any further questions by Members of the Committee on knitting machines? Mr. Z'berg.

ASSEMBLYMAN Z'BERG: Just one, Mr. Chairman. Well then, would you feel then that the thing you and Mr. Thelin talked

about, the allowing of a personal defense on this signed contract with the note would have been a satisfactory solution to the knitting machine problem?

MR. KNIGHT: Yes, because it was very unusual that all the women I talked to, and I talked to all of them, said that we like the machine, it's a good machine, but we can't sell our garments, so where are we, you see? And here they had tied the chattel to the sale of the service and the big loss, of course, was the sale of the service, the teaching and the repurchase program.

CHAIRMAN BIDDICK: I think that is all then. Thank you very much, Mr. Carey and Mr. Knight. I think that it's so close to 12, rather than start in on another witness we will adjourn. Our agenda says 2:00 o'clock, but if we can get started as soon after 1:30 as we can, we can then take care of these people who come from out of town.

(Whereupon the Chairman adjourned for the noon recess.)

AFTERNOON SESSION

CHAIRMAN BIDDICK: The meeting will please come to order. We are going to try to take all of those witnesses scheduled on our agenda for this afternoon and there are a few other people that have indicated that they would like to testify.

We will have to hear those we have scheduled and then we will do the best we can. As I pointed out to you, we have 2 members that have to catch the 4:00 o'clock plane for Southern California, so we are going to have to adjourn at 4:00 no matter how well we do in covering this ground.

Our first witness is Mrs. Helen Nelson from the Consumer Counsel's Office. I don't see her in the audience at this time so we will move to the next man listed, Mr. George Bruce, the Director of the American Gym Association. Mr. Bruce.

MR. BRUCE: Good afternoon, Mr. Chairman, and Members of the Committee. My name is George R. Bruce. I am the Executive Director of the American Gym Association, the newly elected President of that association.

The American Gym Association was organized as a California non-profit corporation in November, 1956 and has its headquarters in the City of Los Angeles, State of California. The Association has 100 members on a Nationwide basis with 30 of its members in the State of California.

The members are all private gymnasiums with some of them more commonly designated as health studios and health clubs. These private gymnasiums have been in existence for periods ranging from 2 years to 15 years. Many of the owners have recognized status in the field of physical education, with some having been outstanding competitive weight lifters on a National status, with many of them also excelling in other athletic events.

The great majority of these owners are personally qualified as physical education instructors in the field of progressive training with weights and corrective exercise.

The members of the Association conduct a general supervised program for both men and women, with arrangements for

individual instruction. The program is based on progressive training with weights. The facilities of the gymnasiums consist primarily of barbells, dumbbells and various types of pulley equipment and apparatus. Some of the gymnasiums have steam rooms, swimming pool and facilities for massages. Some of the gymnasiums also have weightlifting facilities for those interested in weightlifting competition or for the use of weightlifting as an aid to other athletic activities.

I would like to name a few of the California AGA gym owners and give you some of their background. One is Walter Marcyan, owner of the Marcy Health Center, the Marcy Gymnasium Equipment Company, also publisher of Physical Power Magazine, a copy of which you gentlemen have in your folder. Mr. Marcyan is a world authority on progressive training with weights and has operated the Marcy Health Center for the past 15 years. Mr. Marcyan owns the property on which the Marcy Health Center stands.

Bud Mucci, M-u-c-c-i, operator of the Olympic-Crenshaw Gym in Los Angeles for the past 8 years. A man with a lifetime of training and experience and preparation in the field of physical education.

Jack La Lanne, owner of the Jack La Lanne Health Studios, Oakland, California. World authority on progressive training with weights, television personality and for the record, I talked with Elaine La Lanne, who is business manager for Jack La Lanne just before leaving Los Angeles. She stated that they were sorry they had ever gotten into the franchise gym business because the operators were not cooperating exactly according to their standards.

Next is Jim Powers and Gil Martin, owners of Martin's Gym. They have been 8 years in Oakland, California. Have 15 years experience with progressive training with weights.

Next we have Russ Lloyd of the Russ Lloyd's Physical Culture Studio, Oakland, California. 6 years experience, progressive training with weights and -- I'm sorry, correction. He has had his studio open 6 years and 15 years of experience in progressive training with weights.

George & Beverly Crowell Health Clubs, Inc., 13 years

open, with 20 years background training athletics and progressive training with weights. They are owners of the property on which their club stands, which has a value of around one-half million dollars.

Earl Clark, Chula Vista Health Studios, Chula Vista, California. Open 8 years. 15 years background progressive training with weights, former holder of Mr. Universe Physique Title and many other titles.

That concludes a partial list to establish background training of the group which we represent.

CHAIRMAN BIDDICK: Mr. Bruce, will you be able to leave that list with the Committee also?

MR. BRUCE: You have a copy of it. You don't have it in this type of form, but I will leave you this copy.

CHAIRMAN BIDDICK: We already have such a list?

MR. BRUCE: Not in this form, but you do have a list of AGA Gyms which is in the copy of "Physical Power Magazine".

CHAIRMAN BIDDICK: All right. We do have it though?

MR. BRUCE: Yes. Prior to November of 1956, there appeared to be certain questionable practices in the operation of various private gymnasiums or health studios. The American Gym Association was organized for the specific purpose of helping to eliminate these particular practices and to create a standard of ethical conduct for its members.

A number of AGA gym owners and groups assembled, have prepared proposed recommendations on the subject of prepaid service contracts, advertising, instruction, price levels and sanitation. As each Committee Member has a copy of the proposed recommendations, these recommendations will not be read at this time unless the Committee so desires.

CHAIRMAN BIDDICK: You can submit that.

MR. BRUCE: Yes. You have the copy there. It is

interesting to note that the regulatory Legislation proposed by the State and the AGA recommendations, with some exceptions, are in close agreement.

I am appearing here today in behalf of these gymnasium owners who are legitimate, professional and well qualified and ethical gym and health studio operators. These are the stable, experienced operators, some who own their own property and are not connected with new, non-experienced and non-professional elements who have entered the industry beginning around 1955 to possibly make quick money through volume turnover, and who might be said to have sold the legitimate operators down the river. This AGA background is brought to the attention of the Committee because of the fact that AGA has been proposed as a possible means of self-governing by the gym profession itself.

This is in accordance with the Constitutional right of all free enterprise and like other types of businesses is entitled to be subjected to a minimum of governmental control. Drastic controlling Legislation may well weed out the unethical element from the gym profession, however, it may also force the lifetime, ethical operator to close his doors. This is the man who has spent his life learning his profession and knows no other.

Now, I'd like to briefly review some of the phases of the proposed State Legislation with some comments as to AGA's views thereon.

CHAIRMAN BIDDICK: When you are talking about the proposed State Legislation, you are talking about the various proposals before this Committee?

MR. BRUCE: I am speaking of the proposals which has been mailed to me and which we have studied over, and we will make brief comments, not a thorough knowledgeable type of thing.

Mr. Ingro proposed that I do something like that and we won't go through it thoroughly, but we will touch on some of these subjects.

Now, we have part one here, "Abusive Practices". And I refer to paragraph 2. Now, we have State recommendations. The most typical abuse in the health studio industry has been in the

promotion of nomadic gyms. Now further down the line, "lifetime or other long time contracts are sold for whatever the customer can be induced to pay."

AGA recommendation. AGA against nomadic gyms and contracts over 1 year. And that is covered in the recommendations. We have part one, paragraph 6, page 2. In part, many of the contracts used in most industries are non-cancellable, even in the event of death or physical disability. AGA recommendation. AGA has pointed out rights of gyms if client stops service after actual commencing and that is listed in here.

CHAIRMAN BIDDICK: Would you say that again?

MR. BRUCE: AGA has pointed out rights of gym if client stops service after actual commencement. Now that is covered in here. These are just brief notations here which may give you an idea how we stand on this new more thoroughly covered recommendation against what we put in on the first proposal that you sent to us.

Paragraph 7. The use of negotiable instruments is common in the financing of these contracts. AGA recommendation. Negotiable instruments are required for legitimate financing.

Paragraph 8, page 2, part 1. State recommendation. Finally, many promoters have used the sale of prepaid service contracts, memberships in studios as a means of financing their promotions. AGA comment. Many new country clubs use this system. Common practice.

We have part 3. Purpose of hearings. We go to paragraph 5, that's page 4. Now, these paragraphs are not numbered, gentlemen, these are numbers I have placed upon them but it's the best way of quickly identifying the paragraph about which we speak.

Number 5. State recommendation. Certain health and dance studios do not use prepaid contracts at all, but operate instead on a pay-as-you-go basis. AGA comment. Many AGA members use 3 months contract and we consider that 3 months to a year we'd be operating on a pay-as-you-go basis.

Page 5, part 4. Alternative proposals for regulatory Legislation. We go down to page 3 of paragraph 3, article 1 and 2. Now, these are numbered all the way down to 1, 2 and 3 with a, b, c, d, and 3 on paragraph 3, but we take a, b, c, d, and e in paragraph 3. We take article 1 and 2. State recommendation. Require all health and dance studios to obtain a license before operating in this State and require the licensing of studio managers and the registration of all employees except those who perform exclusively clerical or janitorial functions.

Number 2. State recommendation. Require health and dance studios to obtain a permit from the Commissioner of Corporations before engaging in the sale of prepaid service contracts. AGA comment. Should be controlled preferably through a bonafide association which will be under State supervision. This provision is covered in the AGA recommendations.

Paragraph 3, article 3, same paragraph, same page, part 4. Under A. State recommendation. Prohibit the use of a person's life as a measurement for the term of the contract. AGA recommendation. Yes. Prohibit the use of a person's life as a measurement for the term of the contract.

B. State recommendation. Limit the amount of prepayment permitted in contracts above a certain dollar amount. We have recommended one year's membership as a limit which automatically would eliminate the amount of prepayment.

C and D. State recommendation. Prohibit the use of negotiable instruments in conjunction with the sale of these contracts. D. Protect the buyer's defenses in case of assignment of the contract. On C, AGA recommends no. On D, AGA recommends no. The reason; will prevent legitimate financing.

E. Same page, same paragraph, part 4. State recommendation. Provide for the automatic termination of the contract and refund of any prepayment upon the buyer's death or verified disability, AGA recommendation. Only if service is never commenced and then only for 25 percent, and that is covered in the AGA recommendation. Reason. Verified disability clause will lead to abuses.

In other words, gentlemen, that means that anytime a

member wants to get out of training they can go to some source in authority and usually come up with a disability statement. This can be done without too much trouble.

Now, paragraph 4 of part 4. State recommendation. Amend the California Retail Installment Act by prohibiting the use of negotiable instruments in conjunction with installment contracts for sale of future services and limiting the rights of assignees of such contracts. AGA recommendation. No. Very unfair. Will prevent legitimate financing.

Now, we have no part here, so I will have to refer to a number on a certain page and we have page 7, number 1. Require all health and dance studios to obtain a license before operating in this State and require the licensing of studio managers and the registration of employees. AGA recommendation. Should be some form of regulation but recommend it be done by an association of health studios with standards approved by some Governmental agency and with association policing its members.

Page 8, number 2. Require health and dance studios to obtain a permit from the Commissioner of Corporations before engaging in the sale of prepaid service contracts. AGA recommendation. Same regulation recommended as preceding proposal. That is number 1 on page 7.

Page 9, number 3. Impose the following restrictions upon the sale of health and dance studio services. Prohibit the use of a person's life as a measurement. Limit the amount of prepayment permitted. Prohibit the use of negotiable instruments. Protect the buyer's defenses in case of assignment of contract. Provide for automatic termination of contract and refund of any payment upon the buyer's death or verified disability and that would have to be the same as on pages 2 and 5.

Number 4 on page 11. Already answered. Now, we go into a more detailed discussion of proposed Legislation as follows: You have page 13, alternative proposals, number 1 and that is licensing of health and dance studios. I won't go into that, but I will give you the AGA recommendation.

AGA recommends no. Too expensive, too unwieldy. Reason. Because there are a limited number of dance studios and health

studios to be taxed, to make any State organization functioning on collected taxes from health studios and dance studios alone.

Page 10, alternative proposals, number 2. The permit system. I will simply give you the AGA recommendations on that. AGA recommendation, same control but through an association which shall be responsible for establishing certain standards of conduct and of policing its members.

Page 17, alternative proposal number 3. Restriction on contracts. Legislative Counsel's comments. We go to paragraph 2 which in part states: "That limits the amount of prepayment in large contracts so as not to exceed by more than 5 percent the prorated cost of services received." AGA comment. Impracticable. The set up as recommended by AGA, there will be no excessive or large contracts because of the 1 year limitation.

We might go to page 20 here, 1812.85 which is the use of negotiable instruments prohibited. AGA recommends no. On preserving buyer's rights against assignee, 1812.86, AGA recommends no. Termination of contract due to death or disability, 1812.87A. Unfair.

CHAIRMAN BIDDICK: Mr. Bruce, I wonder if I could interrupt you. We appreciate very much the detail in which you have gone into this. I think actually from the standpoint of the Committee, we could take this report and file it section by section.

MR. BRUCE: That's the last one there anyway.

CHAIRMAN BIDDICK: Then I think we get your point. We are interested in your detailed comments, we are interested also in your general observations. Did you want to conclude with a general statement? I had a few questions otherwise.

MR. BRUCE: That's my platform there and I'd be very glad to answer any questions which the Committee might want to ask me, to the best of my ability.

CHAIRMAN BIDDICK: Again, we appreciate the fact that you have appeared here and taken the trouble to analyze carefully the things that we have been studying. Certainly it is to

your credit.

In looking over your list I notice you do not have, among your members, the American Health Studio, which is the one that we have heard so much about here, particularly today. I imagine they never have been members, have they, members of the American Gym Association?

MR. BRUCE: I might state, Mr. Chairman, that the American Health Studios have never been at any time eligible for membership in the American Gym Association.

CHAIRMAN BIDDICK: Now, are any elements of the Vic Tanny organization members of the American Gym Association?

MR. BRUCE: No, Vic Tanny has never been a member of the American Gym Association. However, we will not say that the Tanny organization is not eligible.

CHAIRMAN BIDDICK: Basically, is your position that you favor self regulation?

MR. BRUCE: Yes, sir. I think it can be done in the most economical manner and in a most thorough manner with the least trouble to the State.

CHAIRMAN BIDDICK: Now, do you think that there is some danger of having such organizations as the American Health Studio, by their activities, and by the fact that they have been responsible for causing great losses to many people without giving service in return? Do you think that there is any danger that they, without some regulation, might cause the rest of you to eventually go out of business by continued operation of this sort that they have conducted?

MR. BRUCE: Well, actually the American Health Studios is a dead horse at the present time and we are actually burying a dead horse here.

CHAIRMAN BIDDICK: But, we have seen the fact that these same people though have --

MR. BRUCE: I was going to say that the ramifications

could go on and in certain parts of the Country, and in certain parts of the State, they have gone on to some extent, in that the nomadic type of gym opens up and they sell off the cream as has been stated before and then they close up and move their operation out in the middle of the night and the client is left holding the bag.

Now, this definitely is the type of thing that I think that every gym owner in the business today is definitely against and they would fight tooth and nail against such an operator, even gymnasium owners who are not members of the American Gym Association.

Now, there are many ethical gym owners who are not members of the American Gym Association and I could name possibly a dozen or more of them; but I believe under the self-governing phase of this thing, if we had any cooperation by the State or any sanction of any kind by the State, that these members would very gladly come into the American Gym Association and all work for the common good in eliminating any practices that may have occurred.

CHAIRMAN BIDDICK: The problem, of course, is that we might agree that it is very desirable to have all the gyms belong if we knew that they were taking this course of conduct, but if you have some substantial element that refuses to participate, then you are still having the dual danger, number 1, of defrauding the public. Number 2, of causing the entire industry to be held in disfavor.

MR. BRUCE: Well, I believe that the limitation of the length of time of contracts would almost automatically chase the fast buck operator out of the business.

CHAIRMAN BIDDICK: Well, would you have any objection to that being a matter of statutory control?

MR. BRUCE: No, sir. That's a matter of AGA recommendation of a limitation of 90 days to 1 year, or going on a club basis with initiation fee and monthly dues, monthly dues cancelable at any time.

CHAIRMAN BIDDICK: Are there any questions by Members?

Mr. Z'berg.

ASSEMBLYMAN Z'BERG: Mr. Bruce, I want to compliment you on your presentation and I think you are certainly taking a positive look at this thing. I hope that all the clubs join your organization because it sounds like it's a good organization, but I wanted to ask you the same thing that Mr. Biddick touched on.

Now, we heard from one of the Assistant District Attorneys in San Mateo, or San Rafael, that they are having all kinds of complaints about Vic Tanny and you do have your organization and I imagine the members in your organization are good, ethical groups. But, what can you do about Vic Tanny and are you doing anything about it? I imagine you are not because you don't have any power or ability to do so.

MR. BRUCE: Well, I might state here, gentlemen, that Vic Tanny is a personal friend of mine for many many years. We used to swim, work out down at the beach, just the same as the old ethical members used to do, and I am almost certain that I could go on record as stating that if there are any practices in the Vic Tanny organization which may be considered unethical, that those practices will be corrected by the Tanny organization itself in a form of self government. Whether they come into the American Gym Association or not, and if these practices are brought to the attention of the Tanny Organization, I am sure that Mr. Tanny, being a reputable, honest tax paying citizen, and a resident of the State of California for probably 25 years, will correct any unethical things which may be --

CHAIRMAN BIDDICK: I'd like to interrupt, and then we will go back again. I might say this, and I hesitate to put any personal illustrations in, but as a lawyer here, and as an Assemblyman, I have had complaints from individuals about the Vic Tanny Organization.

I have not handled them as a lawyer. In fact, I started writing to Vic Tanny about a year ago and told them that we had other complaints and this thing was kind of building up, called these specific things to his attention and the letter was kicked around from pillar to post and it was months before anything was done about certain very aggravated situations, and

finally we had been considering this in the Committee and I finally wrote to him and I said that as a result of this and other things, we are going to have an investigation within the next 6 months and then for the first time I had a reply from his attorney who was then most cooperative for the first time.

So, he may be a good friend of yours, but I assure you that he was not cooperative with me at all when I was trying to be cooperative with him.

MR. BRUCE: Well, of course --

CHAIRMAN BIDDICK: And, as a matter of fact, we had a phone call again. I don't know, maybe somebody from Vic Tanny's is here, but I had a phone call a couple of days before the hearings from the attorney, a local attorney who wondered if Vic Tanny should participate. I said by all means. We knew that Arthur Murray was going to be here, we were going to be here and we encouraged them to come, and so far as we know there has not been a Vic Tanny representative on the agenda and they would have been welcome to participate and to comment.

MR. BRUCE: Well, Mr. Chairman, I might go on record here as stating that much of the controversy which has come up here has come about because of the heat and competition that exists in all forms of merchandising in every business today and that if one man wants to stay in business or if he wants to earn money he has got to go the other fellow one better; so down through the years in American industry we have developed what might be called the hard sell, the clever merchandising and possibly sometimes as I stated, the heat of competition has forced these operators almost to the point of illegality in their operations.

Not that they are dishonest individuals, but it's the old game of playing the game and whether you play it fairly or squarely or not, just the same as in sports or in competition.

Sometimes in the heat of battle or in the heat of competition an athlete will do something that he would never do off of that field and I believe the same thing exists here, gentlemen.

CHAIRMAN BIDDICK: Well, I just want to interrupt you

here, I think there is a lot of difference between getting a person in a small room and playing a football game with 11 men on each side.

MR. BRUCE: Well, this is conceivably true here, and I am not standing up in any manner, shape or form for the fellow who has sort of taken advantage a little bit in the heat of competition here and I again reiterate, I am here in defense of the man whose life work is the gymnasium business, the man who is qualified through training, experience, education and investment to do the job.

But I am sure that if AGA became a self-regulating body that I would have very little trouble of getting together with the Tanny Organization and working out anything to the satisfaction of the State of California.

CHAIRMAN BIDDICK: Mr. Z'berg, do you want to continue?

ASSEMBLYMAN Z'BERG: All right. Now, I don't quite understand, Mr. Bruce, what you have in mind by self-regulating. Would you want to have the ability to cite in Vic Tanny and then if your organization felt that he was doing wrong to be able to put him in the local bastille down here, is that what you have in mind?

MR. BRUCE: No, we would have no police action of that kind.

ASSEMBLYMAN Z'BERG: What would you be able to do to Vic Tanny to make him stop doing --

MR. BRUCE: Well, we have done it in several instances already in a smaller way where, in various parts of the Country, they have come in to us from Chambers of Commerce or we have received notices from Better Business Bureaus or possibly even in on instance a term plan organization which accepted much of this negotiable paper and we have written to the individual involved in one instance being Greensboro, North Carolina -- International Trim Lines, being the organization.

International Trim Lines walked out, I mean in one night, they moved vans with all of their equipment out and left

over 1000 members waiting, theoretically at the door, to get in with no place to go, no place to honor their memberships.

I received a letter from the Greensboro, North Carolina Chamber of Commerce. It so happened that the International Trim Lines, one Mr. Robert C. Holliday still operated a studio in Columbia, South Carolina. So I immediately wrote to Mr. Holliday, informed him that if steps were not taken to correct the situation, that we would advertise extensively and continuously in the Columbia, South Carolina newspapers, we would notify the Chamber of Commerce, we would notify the Better Business Bureau, the District Attorney or the City Attorney and the local Better Business Bureau.

Now, we had enough weight at that time and this man still being in business, that he gave me the name of the Eddie Ray Health Studios in Greensboro. I contacted Eddie Ray Health Studios and asked them if they would join the American Gym Association and if they would take over the members of the defunct International Trim Lines.

Mr. Holliday himself went out there, completed the negotiations, and all hands were satisfied. This is one evidence of self government.

ASSEMBLYMAN Z'BERG: Well, I appreciate that, but now, your organization has been in existence since 1956 and this Vic Tanny Organization has been going on for some time. The District Attorney knows about his operation, he gets all kinds of complaints. The Better Business Bureau knows all about his operation, they have gotten all kinds of complaints. What could you do over and above, so far what has been done. In view of the fact there are no laws on the books, other than what there are now. What additionally could you do and let me ask you this, what have you done in the case of Vic Tanny?

MR. BRUCE: Well, we have taken no action at all in that particular instance because at the present time the American Gym Association being a new organization does not have the backlog of strength which it possibly may have in the future.

Now, there are possibilities that we might work with the State or Federal Government in the promotion of a publicity

campaign which would be so strong as to destroy the organization, if they would not cooperate. This is perfectly possible along with our own publicity promotion.

ASSEMBLYMAN Z'BERG: Let me ask you another question. First of all let me compliment you for being in favor of a one year limitation. I think that's a good position to take. Now, one of your positions was that if a person were to have signed up for a year and pay, I don't know how much they pay, 100 or 200 dollars, whatever it is...and then, let's say they go to one health session and then die, that you would feel it would be perfectly proper and equitable and fair to recover from that man's estate the full 100 dollars, is that your position?

MR. BRUCE: Well, normally the same thing would happen if you purchased an automobile or a refrigerator or anything --

ASSEMBLYMAN Z'BERG: Well, except the widow has the automobile after the man dies, isn't that the difference?

MR. BRUCE: Well, that's possible. We might even entice the widow to come into the organization and take over the unearned part of it or the family, and they would greatly benefit healthwise as a result.

And the gymnasiums have enforced many contracts, and the individual has actually thanked them for doing it because their state of health so improved and their mental ability to enjoy life.

ASSEMBLYMAN Z'BERG: Do you think that's quite fair, equitable and proper?

MR. BRUCE: Well, in a case of death we will concede that the thing should be terminated and I think that's covered in the recommendations.

ASSEMBLYMAN Z'BERG: No, I don't think so. I didn't read that in your recommendations. Would you make that a matter of your position?

MR. BRUCE: I would go on record as changing that, possibly in case of death there would be a proration. I can

safely state that in behalf of the organization.

ASSEMBLYMAN Z'BERG: I suppose the same principles would apply to a person who had polio or muscular dystrophy or lost both legs, you wouldn't want to enforce the contract against that kind of individual?

MR. BRUCE: Well, if there is a real disability there we would go on record that a proration of the contract -- yes, definitely. There is no problem there.

ASSEMBLYMAN Z'BERG: Now, there is just one other question and that is that you say it's unfair, if, let's say a person goes into a health studio and they are fraudulently induced to sign a note, out and out fraud, we'll say, fraudulently induced to sign a contract and sign a note, and then the note is transferred to a finance company and the finance company sues as a holder in due course, you say it would be unfair to not allow the finance company to sue and recover? Why is it not unfair to the poor person who signed the note not to be able to put up this personal defense? You say it would be unfair to the health studio because they couldn't finance, but how about the unfairness to the poor person who signed the note? Isn't it unfair to them too?

MR. BRUCE: Well, Mr. Z'berg, let me state here that all of our recommendations are based on ethical practices. That AGA is a self governing body, any time that they would run into any such situation as fraudulent practice, then immediately all that contract would have to be cancelled and AGA would take its policing action against that particular member.

ASSEMBLYMAN Z'BERG: Let's assume that somebody goes to a member -- doesn't go to a member, but goes to a health studio that is not one of your members and let's say the person signs up and gives them a note for 150 dollars for one year's membership and then the next day that studio goes out of business, would you be in favor of allowing the client to be able to set up that defense against the finance company that had this 150 dollar note?

MR. BRUCE: No, sir. Any time that a studio goes out of business, then all contracts should be cancelled immediately.

ASSEMBLYMAN Z'BERG: Fine, thank you.

CHAIRMAN BIDDICK: Any further questions? If not, thank you very much for coming, Mr. Bruce. We had Mrs. Nelson, the Consumer Counsel listed as our next witness and in her place is Judy Ganulin, is that the correct pronunciation, from the Office of Consumer Counsel. Mrs. Ganulin.

MRS. GANULIN: I am Judy Ganulin and I am Editorial Aide in the Office of Consumer Counsel. I am here today representing Mrs. Helen Ewing Nelson, Consumer Counsel of California. Mrs. Nelson has asked me to convey to you, Assemblyman Biddick, not only our thoughts on the subject you are studying, but also our appreciation of the work you are doing and her regrets that she cannot be here herself today.

The Office of Consumer Counsel was created by the 1959 California Legislature at the request of Governor Edmund G. Brown and opened in October of 1959.

I am here today under the authority of Chapter 1, Part 2, Division 3, Title 2 of the Government Code, which authorized the Consumer Counsel to appear before governmental bodies and recommend to the Governor and the Legislature the enactment of legislation we deem necessary to protect and promote the interests of the people as consumers.

Governor Brown was aware of the variety and scope of the problems plaguing consumers in California when he asked the Legislature to create our office. He has urged us to meet them with courage and vigor.

Our office has just concluded a series of six conferences on "Credit - Its Uses and Abuses." The conferences were held in six California cities.

At our conference in San Diego, Mr. Cecil Candler of the Better Business Bureau there reported that some of the dance studios there had used highly deceptive promotional schemes to get customers and sell dance instruction courses. Mr. Candler has sent us a resume of the material the Better Business Bureau has collected on this matter and I would like to turn it over to your Committee. Though I see by the record that Mr. Candler appeared here this morning.

CHAIRMAN BIDDICK: Actually he didn't appear. We had just been in touch with him and invited him, but he didn't. So if you have the material we'd like to look at it.

MRS. GANULIN: It's that much better then. We think one of the most vital services the Office of Consumer Counsel

renders is that of providing a center to which consumers can come with their problems. And consumers have come to us -- by the hundreds -- with problems, questions, and suggestions.

One of the first consumers to contact us was a Sacramento woman who had bought and paid for a year's membership in a local reducing salon and had gone to the salon one day and found it closed. She had not been notified of the salon's closing, and no provision had been made for her to continue her treatments elsewhere or obtain a refund. This woman and a friend of hers who had had the same experience were at that time filing suit in the Small Claims Court for that portion of their paid-up memberships which they had not been able to use.

These women came to us for advice. We contacted Howard Jewel, Chief of the Consumer Frauds Division of the Attorney General's Office and our legal counsel. Mr. Jewel informed us that such a lawsuit was their only hope of collecting, and his experience with such cases led him to predict that they would not get their money back. We suggested that the women go ahead and file their claim and let us know what happened.

Each of these women had kept all the records and receipts she had received from the reducing salon, and the Small Claims Court awarded each of them a judgment against the owner of the salon for the amounts they claimed. The owner, meanwhile, had moved to another county and was setting up another reducing salon there. The two women finally located the owner and had the sheriff of that county serve the judgment.

The owner, however, refused to pay the judgment. She said she had no money with which to pay the claims and was at that time involved in a dispute over rent she allegedly owed on the Sacramento premises she had occupied -- a not uncommon circumstance, we have come to learn.

As Howard Jewel had predicted, the two women who originally contacted us were unable to collect their money.

Since then, we have learned that the problem presented to us by these women is more widespread than we had thought. We have received scores of letters and phone calls from consumers who have been similarly victimized.

We are appalled that such things can happen -- that people can sign a contract in good faith to receive future services, pay for these services in advance, and then, through no fault of theirs, be unable to receive the services paid for and have, really, no effective recourse under the law to obtain a refund of their money.

The two women who contacted us after being victimized in this way tested the law to get relief and found it helped them only part of the way. It seems to us that there is a serious gap in the law here, one that needs desperately to be bridged. Assemblyman Biddick, your Committee, and your staff are to be commended for their efforts in this direction.

Upon hearing of this Committee's interest in the problem, we promised our support and cooperation. We have supplied to the Committee the names of the many victims of these high-pressure sell-and-run plans who have contacted us, and we have kept them apprised of all developments that have been made known to us. We promise you now, Assemblyman Biddick, our continued cooperation and support in your efforts to put a stop to the vicious swindles that can be, and are being, perpetrated in the name of reducing treatments.

Already much has been accomplished. Consumers have been alerted to the dangers that can result from these transactions and to the fact that they must be very much on guard to resist succumbing to a high pressure sales pitch and thereby becoming victimized. The honest and conscientious reducing salons have been alerted to the increasing bad will that is accruing to them as well as to the shady operators among their colleagues who so richly deserve it. They have shown increased interest in eliminating the problem.

We ask you, in considering solutions, to keep in mind that consumers should not have to tolerate the constant menace of pirates in the marketplace. The reducing salons that accept long-term paid-up memberships and close before meeting their contracts, are not only deceitful but are violating one of the most fundamental rights of the buying public -- the right to rely on the terms of sale. Speaking for consumers, we feel that such complete disrespect for our rights is intolerable and should be corrected without further delay.

CHAIRMAN BIDDICK: Thank you. Are there any questions by Committee Members? Mr. Z'berg wants to know, you may not have had an opportunity yourself to go over some of our background suggestions for Legislation. He was wondering if you had any suggestions. We've had several alternatives presented, licensing, permit system, or statutory control of the provisions of the contract.

MRS. GANULIN: We did have a chance to go over some of that material and our feeling at this time is that not being attorneys, we are not sure just which would work out most best from a practical legal standpoint, and so we would at this point rather not express a preference for one or another.

CHAIRMAN BIDDICK: Well, we are mostly attorneys and we are not sure either.

MRS. GANULIN: We have something in common then.

CHAIRMAN BIDDICK: Any further questions? All right, thank you very much.

ASSEMBLYMAN BIDDICK: We had listed on the agenda, Mr. Gordon Keith of the Dance Masters of California, but I understand there is a Mr. Baker appearing on his behalf?

MR. BAKER: No, Mr. Biddick, Mr. Keith has asked that I appear with him.

MR. KEITH: My name is Gordon Keith and, Mr. Chairman, I would like to explain briefly that in my capacity as President of Dance Masters of America, Club No. 13, I am here to speak primarily for the organization.

However, in laying my cards on the table, so to speak, I would like you and the Committee to know that I also have two other basic interests. Namely, I operate with my wife a Fred Astaire franchised studio, and second, for the past 10 years I have edited and published, "Dance Digest", a trade magazine that is circulated mainly by subscriptions, some 9,000 dance teachers throughout America and some foreign countries.

Now then, back to Dance Masters of America, which was founded, by the way, in 1884. This association serves the needs of independent dance schools and teachers throughout the United States. Dance Masters of America is not only the 2nd oldest, but it is the largest organization of dance teachers qualified by examination in this Country.

In order to give you a better picture of Dance Masters of America I will quote briefly from its constitution, if I may. Under objects, section 1. "To enable dance teachers to meet for cooperative and collective study of conditions pertaining to their profession. Section 2. To advance the art of dance and to improve the practice of its teaching. 3. To strive for mutual interest and fraternal cooperation of its members."

Then in the Code of Ethics, I should like to read a little bit. "It is desirous to hold respect for our profession to avoid derogatory references as to the competitive ability, character and accomplishments. To be truthful in advertising, refraining from the use of 'best', 'finest' school or teacher, as well as the term 'free lessons' when a fee is charged indirectly and other misleading statements. For we hold to the truth that advertising is a covenant with the public, the spoken or printed word binding." I'd like to repeat, "the spoken or printed word

binding."

Also that the under cutting -- well, this is local charges for dance lessons is on business practices by this organization. Now, we'll skip over here to what membership means. An active member, for example, is a person over 18 years of age --- persons over 18 who have taught dancing not less than 3 years and who have passed examinations with a required rating of at least 75 percent in each of the 2 or more branches of dance: they shall then be eligible provided they have actively engaged in teaching of dance through the ownership and/or operation of a dance school or as an assistant to a qualified teacher of same. Applicants whose professional activities are confined to the teaching of one branch of the dance shall be subject to examination in that branch only.

Should the applicant at some future date desire to teach other branches, said applicant will be required to pass an examination on that branch. And then, applicants 16 and 18 years of age who have studied a minimum of 100 hours and are actively engaged, or associated with a member of this organization, or other acceptably qualified dance teacher, are eligible, provided they have passed examinations in one or more branches of the dance with a required rating of at least 75 percent.

At the age of 18, student members who have taught the required 3 years, shall be eligible for examination and for active membership.

Now, let's see, we have a couple points over here. Discipline. The Executive Committee shall have the power to discipline officers, members, or affiliated clubs who fail to carry out the duties, or who fail to abide by the constitution. They shall use such punitive measures as they deem just after giving not less than 2 weeks notice to appear before the Committee.

Teacher's training course. This tells a little bit about what we do as an organization. The Dance Masters of America, Inc., shall sponsor, operate and offer its own teacher's training course at such place and for such period as may be termed by the Board of Directors, or the Executive Committee when said Board is not in session. It goes on to say about the records that shall be kept on this.

Section 2. Dance Masters of America shall issue a graduate diploma to a student of a teacher's training course provided the student meets the following requirements. Shall have completed 4 years of full scheduled DMA teacher's training course, shall have sufficient proof of such training, shall have at least a 4 year high school education or its equivalent, shall be over 18 years of age, shall be a member of D. M. of A., shall have passed a comprehensive examination in 3 or more types of the dance.

CHAIRMAN BIDDICK: I wonder if you could give us a little idea of the number of dance instructors that are involved in this organization? For example, in California.

MR. KEITH: Well, this is, of course, a National, and we have the 2 local branches which are directly affiliated. We represent close to 2,000 teachers, dance teachers in D. M. of A. per se, in Dance Masters of America. Our club is called Dance Masters of America, Club 13.

CHAIRMAN BIDDICK: I see now. All right, Club 13 includes all of California?

MR. KEITH: Yes, it's as though you belong to the Elks. You may attend anyplace, you are still part of a major organization and are subject to their discipline.

CHAIRMAN BIDDICK: But you have one Statewide organization in California?

MR. KEITH: No, 2. Northern and Southern.

CHAIRMAN BIDDICK: And you represent the Northern?

MR. KEITH: Yes. I represent the Northern.

CHAIRMAN BIDDICK: About how many people or members do you have in the Northern group?

MR. KEITH: I would say we don't have over, I would say, this is not an exact figure, approximately between 200 and 250 in the Northern part.

CHAIRMAN BIDDICK: How many do you have in Stockton?

MR. KEITH: I couldn't answer that.

CHAIRMAN BIDDICK: You probably have some though in Stockton, don't you?

MR. KEITH: Mentioning a name, Jesslyn Pearson, I don't know if that means anything. She has been in 23 years. I have been in since 1938 myself.

CHAIRMAN BIDDICK: Generally speaking then, these are not holders of franchises, as I understand, they are individually operated?

MR. KEITH: They are individually operated, however, there is --

CHAIRMAN BIDDICK: There must be some franchises because you mentioned that you yourself have a Fred Astaire franchise?

MR. KEITH: After I cover this sufficiently, I'd like to mention a word or two about it which I think may be of interest to the Committee.

CHAIRMAN BIDDICK: I just thought I might be saving you and the Committee a little time by trying to get right to the meat of this thing, I didn't want to interrupt you but I'd rather you got to the real meat of this thing, rather than get into detail on this thing I thought you might --

MR. KEITH: That's all right. I merely started this so that you would see actual facts, that our organization has been in being since 1884. That's perfectly all right.

CHAIRMAN BIDDICK: All right, go right ahead. Basically we are interested in knowing what you think about our proposals, whether you think that there is any truth to these abuses that we have heard about, or whether you think that this applies to other people than yourself, and just like Mr. Bruce, what do you think about the proposals we have been studying?

MR. KEITH: Well, I think I can speak a little on chain

operations and being as I am also -- now, I am not speaking for Dance Masters of America, I want to step aside on that, although I feel that they are with me on this accord, but as a publisher of a magazine and keeping my fingers on the pulse of the dance business over the years, if something has occurred in my own chain organization that I am not in accord with, I don't mind publishing it. I have on a number of occasions. May I just state -- this may be of interest to the Committee. For 30 years I have been allied with the dancing business actively for some 30 years, and at one time we had a chain of 10 small studios and the thing that prompted me to go into the chain business, which I think would be of interest, was that after years and years in San Jose, we found out without mentioning names that people were very interested in advertising. They were sold on these so-called free lessons, and the turning point came, this is one point I'd like to bring out, a nurse came into our school when we were operating under the Gordon Keith Dance Studio, not the chain.

Now, for the past year previous to that the Fred Astaire people had sent a representative at regular periods of time to try to talk us into taking over the franchise but I wasn't interested for various reasons and I had in the meantime then about a year's time of study.

The nurse stated, "I would like to take a free lesson." I said, "we don't give free lessons." She said, "you don't give free lessons, why I have seen them advertised in the paper." I said, "not by us." She said, "well why not?" I said, "because we are not sales people. We don't know how to sell, we are teachers."

And frankly, I was a boss, I wouldn't want somebody working for me to say it, but after 8 or 10 years, pretty soon you know some of the answers, you think you do anyway. And she says, "well, how much would a single lesson be." I said, at that time it was 7 dollars, and I said, "it would cost you 7 dollars." She said, "what if I don't like it?" "Frankly" I said, "you will be out 7 dollars, but I think you will have gotten your money's worth." She said, "I'll take a lesson." She took a lesson, she got through and, (I am saying this for a purpose). And she said, "I think I will take some lessons." I said, "fine."

Now, in my thinking now, and this at the time may be

naive, I don't know -- I said to a nurse -- she had just come to this country not too long ago -- I said, "well, maybe 10 hours." This is very naive thinking in those days, I didn't think any higher than 10 hours. And I said, "well, that will cost you 60 dollars." She said, "all right, I will take them."

Now, the point being this. The next time she came back, I personally talked with her. Half way through the lesson she stopped and she said, "Mr. Keith, I have a confession to make." I said, "Oh." Now you understand that what I am going to say has been over an accumulation of years and that's why I said it. She said, "you remember you mentioned free lessons," and I said, "yes, I didn't mention any names." She said, "You didn't have to because there is no other school in town that gives free lessons." I went over there and I hit the phonograph and I said, "okay, how much did you go for?" She said, "560 dollars."

Now, there is nothing wrong in that, I don't bring this up for that purpose. I bring this up because in my heart, after all of my life in the business, and if I might interject this, well, in a second I'll tell you. I said to myself, how do you like that, how can it be, 60 dollars -- 560 dollars, there is something wrong.

The next time the Fred Astaire people came around I said, "I have studied your situation and I believe you are a fair minded organization, I will do this." Now, in the meantime I have a chance to take the Fred Astaire organization. The Government men come around -- I am being very frank about this because I found out you must be a salesman.

I have been 30 years in the dance business, that's all I know practically, except publishing. They said, "how come" -- first the State men, "how come your books are so short on income? You don't show" -- meaning" I said, "boy, this is it. Believe me", I said, "this is it". So the outcome is this. This is the first public announcement, my contract -- and I have nothing, believe me, I have nothing against the Fred Astaire Studio. We get bulletins of warning in the mail regularly to watch ourselves, we do. But I am giving it up because I find -- and I have nothing against chains, I wish to make myself clear -- that is if they are operated legitimately, but you must be a salesman to go on, otherwise you can't make any money.

CHAIRMAN BIDDICK: You mean you are giving up your Fred Astaire franchise?

MR. KEITH: At the end of this year I am, and the Fred Astaire people don't know it because actually my 5 year contract is up and I have an option, but it just isn't in the cards.

Now, I'd like to point out this. The Bank of America -- you have mentioned this -- is it necessary to have credit to operate. And I believe the very brilliant attorney for the chain that spoke yesterday brought out a point and he was kind enough not to mention Fred Astaire. I will. The Fred Astaire, I think, was the one he referred to, that went broke. On several occasions they have gone out of business mainly because of lack of capital and lack of know how and not having the capital.

The Bank of America people having been in San Jose for so many years, came to me a few months ago when they started the Bank of America card and they said, "Mr. Keith, you and one chain dance school are the only two organizations we are going to accept on our plan." I said, "I can't believe it. Now we will have some operating capital to go along with." Well that's wonderful. Fine. That lasted less than 3 months.

I went into the bank because the Fred Astaire Studio from Alameda called me and said, "Gordon, now, I can't get the Bank of America to do anything." I said, "you are wrong, I will go and see about it." So I went over to see about it and while I was there -- the 'phone is there (indicating). The 'phone rang, he says, "just a minute." I knew the man, he says, "just a minute." I knew the man, he wasn't giving away any secrets, I could overhear it. He said, "What, 1,000 dollars? And additional -- well, the man already has 4800 something on the books, that would make almost 10,000 dollars." So the fellow looked at me and I knew what was going on. When he got through he says, "well now wait a minute, the San Francisco Examiner is down here. Let me get ahold of him, I think something has gone wrong," and sure enough, that was the end. I said, "who killed it?" The man didn't know me because he was a San Francisco man. He said, "well, the chain schools." I said, "the chain schools? Will you please explain?" And he says, "well no, I don't care to." Well, there are only 2 and I represent Fred Astaire. "Oh, well then you know." He says, "there is no more, because the

privilege has been abused." He says, "we don't say by whom." So that was the end.

So that I make that point because you must have a little means of getting income but I'm in favor myself and I believe my club, I mean our club, it isn't my club, is in accord from having talked it over with them on limitation of say perhaps a year's lessons and so forth. ✓

That's about what I have to say.

CHAIRMAN BIDDICK: In other words, as far as you're concerned, you have operated more or less in a non-sales pitch manner and you would not oppose modest regulations on prepaid contracts? It possibly wouldn't affect your way of doing business?

MR. KEITH: I'd like to just say this. Because it wouldn't affect me, I don't want to be selfish, I'm trying to think of the dance business as a unit and as a legitimate unit too.

Now when you say -- you have to be very careful because I have a perfect example. How many independent dance studios are represented here? Do you know what we did last night? This wonderful survey that was done, and all this work, and I know, being a publisher, what work went into that. We went directly from Stockton to Sacramento and we called on the local people who couldn't see an organization.

We went into one school, a local school, not a chain and they have 10 teachers. We said, "I wonder why you don't belong to an organization?" I said, "we prefer ours, but at least maybe another organization." She said, "we don't need you." I put this on the table and I said, "would you glance at that and tell me you don't need it? You are right here in Sacramento and you don't even know that something is going on?"

But I bring this point up to let you know that the small teacher, the man in the health studio said -- is not too generally business minded.

You see that's why I am so worried, so that's what I beg of you, gentlemen, to give serious consideration to the fact

that Legislation, if it's financial, if you impose a prohibitive license -- I don't say you will, but a license or a bond, you eliminate say approximately 50,000 dance teachers in America, and I am talking about the little teachers that teach in their homes, in their basement, wherever they can teach, and that's the biggest bulk of the business today.

CHAIRMAN BIDDICK: I don't know whether you heard the testimony, whether you were here yesterday?

MR. KEITH: Yes, sir.

CHAIRMAN BIDDICK: Well, you know that this is the one thing we think would be very last in the Legislative recommendations, a detailed licensing.

MR. KEITH: I noticed you brought that out.

CHAIRMAN BIDDICK: I think that it bears repeating, that this involves many, many problems. This involves additional cost for you, and it involves also additional cost to the State in setting up another regulatory agency. I doubt very much that there is any substantial support for that sort of Legislation.

MR. KEITH: I'd like to make one more thing, maybe just a light statement. Mr. Tanner or Mr. Garety --

CHAIRMAN BIDDICK: Garety was the Assistant District Attorney.

MR. KEITH: Yes, inadvertently he said, "that means that the suede shoe boys are in operation again." Subconsciously I glanced at my shoes. Today -- here is what I'm getting at. It's too bad that all dance people are in the same category. For years you would go in for a loan in the bank, that was fine. Just before they started putting in pastel colors and wearing fancy clothes. They used to be very severe in banks, you know. I reminded them once and they didn't like it. And they put the pen down when you wanted credit, in those days, you see. So I have been conscious of it.

So you know, we'd be out to a luncheon at a club, and there would be men there. "What do you do, George?" "I'm in

the real estate business." "What do you do?" "Oh, I'm an attorney." Then they would come finally to me. "What do you do?" "I'm in the dance business." A sudden hush and a lull. But since I have been a publisher, it's terrific. "What do you do? I'm a printer." And I guess that is all I have to say.

CHAIRMAN BIDDICK: Thank you very much, Mr. Keith, it was very interesting, you have been very helpful. Now, Mr. Baker, do you have something that you want to add? You may proceed.

MR. BAKER: Mr. Chairman, the time is getting late so I will try not to repeat anything that Mr. Keith has said.

CHAIRMAN BIDDICK: We are running a little short, but we will be glad to hear from you. We want to hear from you, but we haven't even heard from the Stanford Group yet. And I know all here will be interested in hearing that.

MR. BAKER: My name is Charlie Baker, I was President of Dance Masters of California and I was President of Dance Masters of America Club No. 1 for 2 years, and immediate Past-President of the Southern California Branch, which represented the Association of the Dance Teachers of Southern California also.

The new President's name is Ray Lefley, and his address is Box 4545, Canoga Park.

I am here on his suggestion that I come. Not knowing in advance what this is all about, I didn't prepare anything written for you, but I am here to answer any questions that you would like to ask about our organization or about your proposals.

I feel very complimented that I have the opportunity to speak in front of such a wonderful group of Legislators, but I feel very sorry that we have to meet under such adverse conditions. I do believe that the Code of Ethics that we have in the Dance Masters of America is very important and most of our members abide by it strictly or we have a way of expelling the members.

We feel like that licensing as a word "licensing" means just another form of taxation. We already have a City License in Los Angeles, we have a police license in Los Angeles, we have many other things that we have to cope with than taxes, and then a license by the suggested Corporation License would be another added burden on us, and a permit to operate would be another added burden on us. I don't think that that would do any good.

We much prefer the word "certification". If you look back in the record, the Dance Masters of America in the North, especially Club No. 13, they saved money for 11 years to try to enact Legislation on certification of teachers.

That was thwarted immediately by some of the chain school operations and it was decided that it would be a bad thing, they wouldn't be able to control it very well themselves; but if we do, if we have to come to Legislation to give a lot of credit to the teaching profession, we prefer to say certification of teachers.

Certification of teachers would mean a great deal in our favor, and prestige. Like you would say a Certified Public Accountant. You certainly wouldn't be able to be afraid to stand up and say I am a dancing teacher.

I had the same feeling myself many times, I would stand up and say at the Lions Club, and say, well, I am an acrobatic teacher, to put the idea aside that I might be connected with some unscrupulous chain operation because the minute the Lions Club members hear about what is happening down at Court and some of them attorneys--on an average of every week there are 2 or 3 cases where they are collecting money from people who are supposed to owe it--I'm kind of ashamed to say I'm a dancing teacher myself.

But we want our prestige and we can only get it probably through the help of Legislation. If we have to have it, we'd like to make that a pointed suggestion that we'd like to work with you on certification. The Dance Masters of America worked 8 years toward this terminology and ideals and modernization which eventually will take place very soon in the form of different things that you could probably certify teachers on.

We represent about 2,000 members in the United States, and we represent -- I represent about 200 members in Southern California, all together belonging to the United Counsel of Dance Teachers' Organization, and our club in Southern California belongs, so does the master organization.

We represent about 7,000 legitimate dance teachers in the United States, so our theory is that in the main, the whole of humanity is happy with good service and value received for their money. The D. M. of A. very strongly resents pressure sales.

I have had some personal instances where I hired men that I thought would do me some good and then ended up over

selling, and as a private school I can tell you I have had some very embarrassing situations happen to me.

This one instance, one boy came in and I said, "here is 200 dollars for you to operate on, I want you to put on a campaign for me to sell lessons." Well, with the money he went down and he was able to talk the radio stations and newspapers and everybody concerned with this advertising campaign into credit. So I was up 2,500 dollars in bills within the week and I didn't even know about it and he was using my name because I had been in business in Oakland, California for almost 10 years. And I belonged to the Merchants Association, so I didn't learn about it until I was down South on my vacation and I said, "do you know this fellow Harry Cohen?" And he says -- he threw a fit, this fellow, down on Hollywood Boulevard--he says, "Yes, he's one of the biggest crooks there is in the business." So I cut my vacation short and I drove all night to get back and I called my brother-in-law and I said, "Look, get down there and hold the cash, do something before I get there. I want to be able to talk to him at least."

So I got back. It so happened Harry Cohen was a promoter of fighters too. He always had some fighters with him. So we were planning to work him over to the place that I at least had my own money back and I had learned about all these bills in the meantime that were being run in my name. So lo and behold I did persuade him to stay long enough by making a ruse, by pretending that my brother-in-law was interested in signing up 16 couples for a new class and he talked him into staying long enough for me to get back from Los Angeles and when I arrived about 10:30 at night, why the door got locked and we were really going to tell the boy off and say, "look, this is the way it happens to be. We want our money back that you collected from these people. We don't want any misrepresentation."

In the meantime he hollered out the window down to his friends, prize fighter friends to come up and save him, so we locked the door and I said, "listen, we will get this settled right now. We'll go down to police headquarters and see what this is all about."

So he was very nattily dressed and I was driving all night, didn't look too good, kind of weather beaten; so we got

down to police headquarters and the Lieutenant was going to put me in for kidnapping.

He had such a terrific sales pitch that that boy was really going to get me for kidnapping. The only way that I could explain it was that we were locking the door to keep his prize fighter friends out from beating up on us.

So that's my experience in high pressure sales. I want no part of it myself.

I think that when we have..if you're just selling handkerchiefs, you have to sell. That's acknowledged. There might be an investigation on these tailors who make small pockets and they have to have 5 folds in their handkerchiefs now, but that's just for the birds as far as I'm concerned. 10 to 30 percent on sales is a very happy average, but when sales reach a point of 60, 85 percent and about 20 percent on service, we have trouble, and I am sure that you have very good judgment and you will not enact any hasty Legislation that will restrain the big people, while you are still trying to help the little people.

So all I ask is an opportunity to work with you and if you have any suggestions or any reports that you'd like to gather from our organization, I will be very happy to give them to you. I might digress for just one minute. Behind all this, and behind criminal offenses, we look for motivation. Motivation means that -- why does all this happen, why do we have all this pressure sales. There is a possibility if we go a little further along that you might be interested in a 12 page report that Mr. Keith published in an official publication of Dance Masters of America this week.

It has to do with the fact that the Government is in business giving away lessons and a lot of the schools have to pay anywhere from 18 to 20 times as much money to get anybody in the front door to be able to sell them even. So we have that situation to deal with which will come up later and when it does come around to you, I really would appreciate your looking it over because we do have the recreation department in the business of dancing and in my backyard there is a park where they service 350 couples in ball room dancing. I had to close out my ball room department because of that even though I had hired world

champion dancers on my staff, I had to lay them all off.

So in closing, I just want to thank you very much for this opportunity to say a few words to you and if you don't mind I'd like to have a list of the people that I can send this information to from Southern California and the Dance Masters of America Club No. 1.

CHAIRMAN BIDDICK: We appreciate your coming here, Mr. Baker, and we will provide you with any drafts, along with all the other people that have been here, of any proposed Legislation and normally we try to send out transcripts of these hearings to those that have attended and who have shown an interest.

Now, your last request was that you were going to provide us with a list of other people, is that what you want?

MR. BAKER: No, I would like a list of your Committee. If you'd like, I will send it directly to you, Mr. Chairman.

CHAIRMAN BIDDICK: You would like a list of the Members of our Committee so that you can contact your people and have them talk to them, is that the idea?

MR. BAKER: Yes, we'd like to mail back suggestions and things that are happening in our field, keep in touch with you at all times.

CHAIRMAN BIDDICK: We will be very glad to see that you have a list of the Committee. Actually, anything that you wish to correspond with us on this particular matter, would just be addressed to me as the Chairman of this Committee, care of the State Capitol. It's just as simple as that because our office in Sacramento would be handling this, and it is open regularly and our staff people that are working on this are in touch with the office, so that is the main method of correspondence; but if you want to have the names and addresses of individual members, we will be glad to give you that.

MR. BAKER: I certainly appreciate that. My name is Charlie Baker, and my address is 5438, Fiddler Avenue, Lakewood, California.

CHAIRMAN BIDDICK: Thank you very much. Let's take a 5 minute recess at this time.

(Whereupon the Chairman recessed briefly at 3:00 P.M.)

CHAIRMAN BIDDICK: The meeting will come to order. We are reaching a point now which often happens with Judiciary hearings. We have more people than we have time. We do want to hear from the student members of the Legislative Workshop Seminar at Stanford. Mr. Agathon Aerni will act as their spokesman and Mr. and Mrs. Feather had previously been in touch with this Committee and we must hear from them; and I know that the Arthur Murray people would like to have an opportunity to comment on the report of the Stanford people.

Now, we have 45 minutes left so we will do the best we can and I know also of somebody else here, Mr. William Dalgrew asked for permission to comment also. I am afraid that we are not going to be able to get to everybody.

I will say this, that anybody that we don't call on certainly should feel free to send us a supplementary letter or report. We'd be very glad to have that.

So at this time I'd like to call upon Mr. Aerni and the other gentlemen from Stanford, if they want to join you, there are three seats up here in front. You go right ahead and try as much as you can to be concise about this. You know our time factor.

MR. AERNI: All right. Members of the Committee, I sincerely appreciate being here. My name is Agathon A. Aerni. I surveyed the dance lesson industry as of late. I have to excuse myself for my accent, actually I am a native of Switzerland where I studied law in Switzerland.

CHAIRMAN BIDDICK: We have a native of Switzerland here down at the end of the table.

MR. AERNI: That I understand. That really makes me feel at home. I am on the Foreign Lawyers Program at Stanford and it has been a very, very worthwhile activity, and especially in experience among the various topics, to make a survey of those

problems with regard to the dancing instruction contracts.

The whole thing came about in law school. As you do in law school, I enrolled in the seminar for work on my Masters Degree and we got a list of topics suitable for our class. Among them was one Topic No. 11, Contracts for Dancing Instruction.

Contracts for Dancing Instruction had been criticized because they compelled the person who contracts to receive dancing instruction to pay the agreed contract price even though he is unable, by reason of death or disability, to take all the lessons for which he has contracted. Now, there were some 16 topics and I choose the dancing lessons. I choose it -- why? Because my wife is majoring in anthropology and zoology and she thought it would be a very interesting sociological study. On the other hand, because of my contacts I have had previously, before I came to the United States, in 1955 I gathered work in business administration at Michigan State University at East Lansing, Michigan. I have taught for quite some time at Michigan State before I decided to take up again the study of law at this time -- not civil law, but the common law side of it -- and while at Michigan State I was advisor to various student organizations including fraternities. I belonged to some fraternities and there I came into very, very close contact with the problem of chain studios selling dance lessons and using the poor freshman who comes out now to college. He comes from some small little town, backwoods, and he gets down.

He is a lucky man -- to have a dollar bill which ends with a zero or a 5, or he is the lucky man who knows that there is at least one general among the Presidents of the United States -- all very thought provoking things, and you go down to the studio and then you may get into trouble and I found very many cases. However, I decided to approach the thing as objectively as I could because I do believe that this is a form of entertainment.

I like to specialize in stocks. I know that stocks at the present time are good investments: bowling alleys and so on, especially the firms with equipment. Well, that's some part of it. It even makes the cartoons lately.

I have here a cartoon from the San Francisco Chronicle, Sunday, May 1, 1960 and it shows kind of a spaceman or at least someone way up there. I have trouble to figure out, I have never been there. It says, "Interplanetary Communications Center" and it tells of a proviso for emergency crank and in there you find the statement, "contact with earth is achieved. A voice congratulated me and said that I just won 12 free dancing lessons." I think you may be interested in this as an exhibit.

Now, in the report you see, to begin with again I'd like to point out that the views which are expressed in this report are the views of the members of the Seminar. I take any blame or anything with regard to the factual material. I gathered it all; I did all the field work. For the past 3 and a half, 4 months I have been traveling around the Bay Area visiting dance studios, telling them of what my purpose was. I was posing as a customer. I have been interviewing people. I am also a college teacher at the same time, so this gave me an opportunity to ask hundreds of students. As a result, I was able to gather all kinds of material.

But let me say again, this view is ours, it does not in any way, or it should not reflect necessarily the views of the Stanford Law School or of Mr. DeMouilly in his other capacity of employment. So I don't want to implicate anyone else.

Passing into the introduction, that falls into two parts. The study: intrastate, namely, California, and out of State.

Now, yesterday we had heard the very, very interesting testimony by the attorneys of one of the large dance studio chains. They have given a very large presentation. I was very impressed with it; however, I cannot believe that one particular dance studio chain has 85 to 95 percent of the business. This is just impossible. Not even dollar volume wise, as high as prices may be and the particular chain, they have a very fine studio. The physical plant is wonderful and the teaching is excellent, if you can afford it.

I would rather say they probably represent maybe one-fourth of all students taught. Moneywise, it may be 40, 45 percent, but this is kind of a guess; it is very difficult to assert the size and extent of the whole dance studio industry. We have things like trying to get a Dun & Bradstreet report, trying to

get the yellow pages of phone books and all that, when you realize the number of studios in existence for one year then go out of business.

Well, anyhow what I would like to stress goes beyond dance lessons. You can take any of the literature. It goes beyond that. It's a kind of buying social life. It may be called the gang capacity or the capacity for enjoying life; the overcoming of physical ailments. The fact that we all don't realize that, we are all wall flowers. I have been persuaded -- particularly in the last few weeks, that I am a wall flower. I may state that I am happily married, (I didn't say so) I know that I was lonely and I was shy. Well, I could go on. I have had very many cases of people who have come across these things and are persuaded that this opened up the way, they finally did do it. This is, of course, a wonderful thing. However, you are paying an awful high price for it and the trouble, you have all those various quizzes, (how you get those lessons), saying that Michigan... the things may change. Right now the newest one is that you have to name the Mayor of the City of San Francisco.

They are all various things. For instance, I have the testimony of one of my people I queried where you will find on pages 6 and 7, but actually regardless of whatever answer you are going to give, where did the waltz originate? You have your choice, Austria, France, England. The guy who was a music major, he knew where the waltz originated. He said England. He knew exactly this was wrong because 2 or 3 days before I had asked him whether he had any experience with dance studios. It went on. Came the story as to the origin of the polka, there were again various countries including Italy, so he said Italy. He was still right. When they came to cha cha cha, and he picked Sweden. He got 3 free lessons.

In other words, anything is being done to induce the people to the studios. On the other hand, you may go to some studio who decides -- well, let me have an example. An elderly gentleman who is very dignified. Brigadier General, retired, United States Army. Well, he decided that his waltz steps were a little antiquated and that he may need some brush up a little bit on it. Well, of course, his steps got analyzed. Well, there is nothing wrong with the analysis, this was a very wonderful thing to do. However, the way the thing gets analyzed for the average person,

unless you want to become a dance instructor and enter into major competition, there are lots of things. The average person who wants a few lessons, just so that he can move his wife, or some other lady, around the ballroom, who goes dancing maybe 5 or 6 times a year, maybe even less. Well, he doesn't have to be an expert dancer. However, every attempt is being made to sell these people for long periods of time. For large amounts of money. And this is not only one chain, there are a number of chains.

I am not trying to hit any particular chain, but a number of these studios....On the other hand, smaller operators, very few of them. You had a very nice testimony of the people from the Dance Masters of America. They are honestly trying hard to get ethics into the business -- to somewhat get those fast selling methods out of the field -- get back down to earth. I mean not that you have to have those space ship things here, but unfortunately, only a small minority of the dance teachers belong to such. Very fine associations.

As good as the Code of Ethics sounds, they are unfortunately too small. However, I would like to commend those organizations for what they are trying to do. Various things from various studios, these are some of the things; how your course is going to be planned and you see, the average person needs hundreds of hours, at least 200 before he gets anywhere close to getting his dancing ability anywhere up to par.

Then you have a number of cases. I skipped those cases I have and there are a large number if this Committee is interested, I will be happy to supply more. The trouble was, I found a number of people in these things, but they said, "Don't mention me. You know my husband never knew that I signed up." "Well, my wife never knew." Or, "If my son-in-law ever would find out." And they would get on into the whole problem of domestic relations. I found a few cases where some elderly gentleman at some Civic Club luncheon said -- of course I took any opportunity as of late to ask anyone I met. Sooner or later I got to the topic -- what to talk about on to dance lessons -- I found a few people from very fine families who said, "Well, you know it got my son into trouble." "He withdrew funds from our joint account, he spent so much money." Or, "He obligated

unless you want to become a dance instructor and enter into major competition, there are lots of things. The average person who wants a few lessons, just so that he can move his wife, or some other lady, around the ballroom, who goes dancing maybe 5 or 6 times a year, maybe even less. Well, he doesn't have to be an expert dancer. However, every attempt is being made to sell these people for long periods of time. For large amounts of money. And this is not only one chain, there are a number of chains.

I am not trying to hit any particular chain, but a number of these studios....On the other hand, smaller operators, very few of them. You had a very nice testimony of the people from the Dance Masters of America. They are honestly trying hard to get ethics into the business -- to somewhat get those fast selling methods out of the field -- get back down to earth. I mean not that you have to have those space ship things here, but unfortunately, only a small minority of the dance teachers belong to such. Very fine associations.

As good as the Code of Ethics sounds, they are unfortunately too small. However, I would like to commend those organizations for what they are trying to do. Various things from various studios, these are some of the things; how your course is going to be planned and you see, the average person needs hundreds of hours, at least 200 before he gets anywhere close to getting his dancing ability anywhere up to par.

Then you have a number of cases. I skipped those cases I have and there are a large number if this Committee is interested, I will be happy to supply more. The trouble was, I found a number of people in these things, but they said, "Don't mention me. You know my husband never knew that I signed up." "Well, my wife never knew." Or, "If my son-in-law ever would find out." And they would get on into the whole problem of domestic relations. I found a few cases where some elderly gentleman at some Civic Club luncheon said -- of course I took any opportunity as of late to ask anyone I met. Sooner or later I got to the topic -- what to talk about on to dance lessons -- I found a few people from very fine families who said, "Well, you know it got my son into trouble." "He withdrew funds from our joint account, he spent so much money." Or, "He obligated

us. Well, sure we would have had ways to rescind the contract, but we can't have that kind of publicity. We would rather pay the 5 or 7,000 dollars involved."

In other cases apparently there had been some fraud, and not too long ago there was a bank hold-up in Oakland and well, you find bank hold-ups all the time. The gentleman was sent back for 10 years, I forgot to which institution, and one of the reasons why he had to steal money was he had obligated himself for thousands of dollars for dance lessons and he just had to get the way to pay for those lessons. Holding up the bank seemed to be the answer.

One report --I took it in stencil--it's the report of the Circuit Grand Jury of St. Louis and you will find I recommended it -- also they have excerpts and opinions from the sales manual from two of the larger chains, and of course you have had lots of information in the papers. Time Magazine has come out repeatedly against those malpractices.

Here you have a very nice comment, it used to be a very nice song. I quote the report: "The old song of 'Arthur Murray taught me dancing in a hurry' is a thing of the past. The new song seems to be 'Why hurray, spend your life with Arthur Murray.'" With the emphasis on selling as many lessons over a long period of time as possible. There, of course, may be, I haven't found any cases where they have vitamin pills in any studio, but eventually it could be a well needed thing, but since a number of some dance studio operators say, "Well, you know there are not too many changes, the same old collection of old ladies." It would be good that they start distributing vitamin pills.

Each prospect is thoroughly analyzed, not so much for her ability to dance as her ability to pay. Those are the findings of the St. Louis Grand Jury. Her most intimate financial secrets are uncovered and the program is planned for her. This program is designed to relieve her of as much of her cash as possible, and it makes no difference whether you are a millionaire or a pauper. We have had one or two cases from Mr. Tanner yesterday.

Even if the lady signs a fairly good sized contract, he will badger her to extend her obligation.

This is the St. Louis Grand Jury Report. You have a number of those people, they go in, it doesn't only affect old people. It is my understanding that there are a dozen students at Stanford that go to the Law School Professors every year to ask for help. How can we get out of what we got into. At times they might sign up minors and of course the answer is nice, but you know a few cases where they went to the Small Claims Court and then they found out that it was involving a minor.

As far as the assignment of the contract is concerned, that's very nice, but if you go to the local newspapers we find many times, practically every day and here I give credit to my wife, who has been enjoying going through the miscellaneous "for sale" ads. Here for instance: "Wednesday, April 27, 1960, San Francisco Chronicle, dancing lessons. Arthur Murray. 9 dollars an hour or acceptable offer. WA 10799 evenings." Underneath, "dancing lessons, Arthur Murray. 310 hours at 6 dollars for individuals or groups. WE 13804, evenings", and so on. They have lots of ads. I contribute a few to the cause.

I called up and it seems that people pay high amounts. You have one price rate on exhibit 4 and there you find that 1200 hours cost 14,688 dollars cash and not 11 to 12,000 dollars as alleged yesterday by the representative of the particular chain. Of course, I realize that money depreciates in value and we have depreciation of the dollar, those prices go up. So this price schedule is the one which is currently in use and maybe he didn't have the latest information.

You have a number of cases if you go out of State. Let me quote one case. "Canadian Abridgment, 1958 EA-2" and I can give you all of the citations for the full case. "Plaintiff," it's an Appellate Court Decision of Manitoba, Circuit Court of Appeals. "Plaintiff, a 24 year old graduate nurse who recently had come from Germany, entered into a contract to take 15 dancing lessons for 155 dollars. Before the course was completed she was induced by a male instructor of the dancing school who paid her a great deal of personal attention to enter into an agreement to take a further 85 lessons for which she paid 692 dollars." Those would be Canadian dollars.

On Plaintiff's action for rescission of agreement (she kind of felt she got in too deep), on the grounds of undue

influence and for the return of 692 dollars, the Court held the action must be dismissed. Plaintiff no doubt was subjected to discreditable high pressure salesmanship, but it did not amount to undue influence. The parties met on equal terms and the contract would not be held to be unconscionable.

Now, in the Province of Ontario, according to information I received from the Attorney General's Office there, this contract would have been held, considered as an unconscionable contract. They have a specific statute called the Unconscionable Transactions Statute and this would get it dropped.

May I mention, of course, the Swiss law is also close to my heart, as most of European Codes. Switzerland has an article, it's quoted, Code of Publications, Article 416, part of the Civil Code of Switzerland, and has had this for quite some time. It indicates that no enforceable actions, no enforceable way of a contract, no way to enforce a contract if it is based on kind of getting two people together, a way which eventually could lead to marriage. This, of course, would include the lonely hearts clubs, which I also would suggest that the Committee would take a closer look at. I came into closer contact with a number of cases. I could cite them but they are beyond this Code.

However, I followed up this code provision and also there have been never any cases with regard to dance lessons. I am giving examples. From here I have been advised by some of my fraternity brothers, who are lawyers and practicing attorneys, and judges, that in case the problem would come out with regard to dance lessons, that this would be held as unenforceable.

There is a similar code provision at the present time under German Law. However, I could not say how it would be interpreted.

I wrote to a number of dance studios, I got lots of letters back: moved, no address. Which also indicates there must be a number of studios, a number of people who have contracted with that particular studio but are out of luck.

Here I went into the various contract provisions. You have a few contract forms as exhibits. I want to point out this one exhibit, Exhibit 3 where you find one note. This particular

case does not involve Arthur Murray; those people are going to think that I am picking at them and I am not.

There you find a typical examination of a note which can be easily discounted anywhere, which I understand a number of banks in this area have done. I know because I have brought it to the attention of one of the larger banks in California, and this has been stopped.

Abuses outside of California. Now, I have already cited that case from Canada. The number of cases from Canada. I surveyed all of the United States. The whole thing started out, abuses outside of California, page 18 and 19. I have a few and as you see especially right now there is a case in the Colorado Supreme Court. There have been a few cases in lower courts which always create lots of problems and always create quite a bit of bad feeling among the attorneys who handle it because this is no way of enforcing it. The same situation in Michigan.

I have a letter from one person in the Legislative Counsel's Office in Michigan and he says, "When I was in private practice I had so many problems with those dance contracts", but there is just no way and, of course, what we can do is go to the studios, if they see they are going to get adverse publicity, in most cases they are going to rescind it.

However, many people do not want to go to lawyers. In many cases it costs at the most a couple hundred dollars. They do not want to get the publicity; again the husband may have found out they were in dance studio and so on. Now, if you are going to get into State Legislation, steps taken, you find in '35, (that was the earliest Bill I could find), it was introduced in Wisconsin. I have it in my material and I introduce that too.

Massachusetts has a law, a licensing law. However, at the present time it may institute full conditions for the ethical sale of dancing lessons.

CHAIRMAN BIDDICK: Mr. Aerni, I think we are going to have to limit you at this point. I know there are a tremendous number of things here, but we do have to hear these other folks. We have to hear the Feathers, who have contacted us.

MR. AERNI: Could you give a couple minutes to each one of these two gentlemen?

CHAIRMAN BIDDICK: Sure, we would like and be glad to hear from them. If they would like to take a couple minutes. I will say for the benefit of the people here that this has been a study by a Seminar. They have made a number of interviews which Mr. Aerni has been going over, really touching upon, to indicate the practices in this industry. They have analyzed for us steps that have been taken in other states, collected the statutes in other states and discussed other Legislature in other states. They have come up with a proposal for Legislation in this State which gives us really many alternatives in the one proposal and they have included a number of interesting things from other jurisdictions, particularly a Grand Jury Inquiry from Missouri and they have summarized earlier Legislation which has been proposed, a digest from other state governmental agencies, sample letters -- it is truly quite a complete work and the Committee is most indebted to you for this very fine background.

I mean, it's far more than you could possibly cover in a brief presentation and I am trying to outline it so that the people here will be aware of the tremendous amount of work that you have done. Yes, we'd like to hear from the other gentlemen for a couple of minutes. Proceed.

MR. BIRDLEBOUGH: My name is Steve Birdlebough, B-i-r-d-l-e-b-o-u-g-h.

I worked primarily on the various alternatives for statutes which might be enacted and you will see that the proposal which we arrived at as being the most desirable one was one that would both restrict the kind of contract which could be entered into for dance lessons and which would provide for bonding in order to insure that the studio would perform under whatever contract they did arrive at.

This is to take care of studios that do move out of the area. Primarily this is not a difficulty with the dance studio, although it has occurred in several instances which Mr. Aerni summarized.

We feel that the double provision is necessary for this reason. If you are going to provide for prepaid contracts, there has got to be some guarantee that the prepayment is going to be available in case the contract has to be rescinded. The provisions for rescission.....we considered several different possibilities. One, that it would be only rescindable for cause. We felt that any standard which the Committee could set up or which the Legislature could set up for what was good cause for rescission would be interpreted by the Courts -- well, you couldn't really tell beforehand how it really would be interpreted by the Courts. Probably to give either no grounds for rescission or to give grounds for rescission in any case, depending upon the presumptions which you set up. And that it would be actually better to state whether you wanted it to be rescindable in every case or only in case of death or disability.

We chose every case, provided that the dance studios could provide for a liquidated damages clause in case rescission was asked for, and I have talked to a number of people who are running local dance studios and they feel that this would actually be beneficial from their standpoint; that if people had the opportunity to rescind there would not be any incentive for high pressure salesmanship at the beginning.

The salesmanship would have to go on through the entire dance contract and if at any time the student felt that he wasn't getting what he was paying for, then he would know that all he would have to do is forfeit liquidating damages and he could leave the next day.

This would insure that the studio would have to continue to perform once it had made its contract and it would remove the incentive which we think is behind all of the high pressure salesmanship, and all of the high pressure advertising that goes on in the industry to get people to come in to the studio and sign a contract and so forth.

That briefly is what we want.

CHAIRMAN BIDDICK: Thank you, Mr. Birdlebough. The next gentleman may proceed.

MR. WIEDEM: My name is Carl Wiedem, I am in my last year of law at Stanford and in 2 weeks I hope to be a Stanford graduate. Next year I hope to get another crack at this problem as Senator Shaw's Assistant from San Bernardino County.

Right now I'd like to point out a couple of parts. I did work on part of the Statute or actual proposals of the draft of the Statutes and I noticed a couple of times that Chairman Biddick mentioned that he was not interested in such provident Legislation. Now, I don't know whether he meant licensing or exactly what it was. However, I would like to put in a plug for more than just regulating prepaid contracts. The inherent difficulty here is that you can't draft a Statute that cuts completely across the board. For example, if you subject prepaid contracts to limitations or time limitations, either amount or time, you will run into such contracts as for janitorial services, which in many office buildings run into hundreds of thousands of dollars and you can't possibly limit this by limiting the definition of what a service contract is.

However, you run into several difficulties. The one other point I would like to make is that most of these contracts fall in an area that in amount, in dollars and cents that is, is above the amount that is required now in Small Claims Courts. I think that amount now is 150 dollars, but it falls below the amount where it makes it worthwhile for an attorney to take the suit of a client, and, in addition to this, you have many of the consumers that cannot afford an attorney or are unwilling to go to an attorney.

Therefore, if you enact merely a civil remedy in this instance, you are going to find that the law is largely going to lie unenforced. In fact it will probably run unenforced in the large lifetime contracts. I certainly agree with the Consumer Counsel that in this day and age we no longer are living in an age of laissez faire economics and Caveat Emptor. We have a public interest and we should protect this public interest in making sure that a person who enjoys dancing, who just wants a few lessons to learn how to dance, is not going to get hooked into a gyppo deal which will ruin them for the rest of their life. Thank you very much.

CHAIRMAN BIDDICK: Thank you very much, gentlemen. We

appreciate your coming. We appreciate your work. Now, Mr. & Mrs. Feather, we would be glad to hear from you. These folks operate a chain of health studios. Give your complete names and spell them so the reporter can get them.

MRS. FEATHER: Mr. & Mrs. Feather, F-e-a-t-h-e-r.

Mr. Chairman and Members of the Committee, we certainly appreciate your giving us the opportunity to explain about the operation of our salons and our attitude toward the proposed Legislation. We believe that we operate the largest and most successful chain of women's slenderizing salons in Northern California.

We do not belong to any groups or associations, nor do we desire to belong to them.

We do not operate on franchises nor do we give franchises. At the present time we have 5 salons with several more in the planning stages. Each of our salons is set up as a California corporation. All of the stock of the corporation is owned by my husband and myself.

We started with one very small salon in Berkeley in 1953. We have expanded as we were financially able to do so. We have now 7 years of uninterrupted growth and success in the business. We believe there are unlimited opportunities for future expansion because we sincerely feel that we are offering a legitimate and much needed service to the communities in which we are located.

Let me give you a brief resume of how we operate our salons.

First, our greatest time, our greatest effort and the greatest expense to our salons go to personnel. Well trained, capable personnel means the difference between running a successful salon and an unsuccessful one and this certainly does not mean just sales personnel. We are in a service business and the service can only be as good as the technician who instructs and services the patrons in the salons.

We have complete training for all of our personnel. We

generally hire girls who do not have previous experience in the slenderizing business and train them completely in our methods. We have just completed a 5 weeks training period with instructions on exercise, diets and posture.

For the salons we have at present, we maintain a payroll of over 150,000 dollars a year, not including the salary of the owners.

In our salons we do not sell time as such, we sell treatments. Each woman who comes into our salon does not need the same degree of figure correction, nor does she have the same health problem. Our sales personnel, our managers are paid to estimate how many treatments a woman needs to achieve her desired results. This estimate is based on the following coordinates: Age, health, bone structure, texture of skin and her degree of correction.

We spend no less than 45 minutes completely explaining our program to each prospective patron. We tell her exactly what she can achieve in our salon and we guarantee the results in writing. Approximately one-third of our patrons are doctors' referrals. They are sent to us six weeks after hysterectomies, right out of traction from the hospital with bad backs. We have pre-natals and post natals, we have patrons who have heart conditions, we have patrons who have had strokes and who are recovering from serious accidents which have involved broken bones and severing of the muscular and nerve tissues.

We have post-polio patrons and 50 percent of our patrons have suffered from either arthritis or bursitis. All of our medical programs are completely supervised by my husband and myself. We sincerely feel that if a person can move, he can do that much more to improve the health and vitality of his body. When a patron is sold by one of our managers, the contract is completely explained to her so that she understands exactly what she will be receiving and the amount of payment and the method of payment that she will be making.

There are two methods of paying in our salon. One is cash, for which we give a 10 percent discount. We also have the budget programs, which are made up of monthly payments. About

75 percent of our contracts are on the budget basis, for which there is no interest charged.

We handle our own contracts. We do not sell them and we do not discount our paper. We do not feel that any business of our type which has to sell its contracts to a lending or banking organization solely to maintain capital to operate is on a very sound financial basis. When we accept a patron we are willing to accept the complete responsibility of that patron from seeing that she gets her promised results to the collection of her payments.

A business of this type which intends to remain in business and service its contracts actually has no valid reason for selling that contract. The only document that our patrons sign is a contract. We do not use notes or any other negotiable instruments other than her check for her payment. We have never sued a patron to collect her account nor do we ever intend to sue one.

We find that our uncollectible contracts run only about 10 percent. Through collecting our own accounts we are immediately aware of any dissatisfaction or problem that a patron may have. These matters are at once referred to the manager, who then takes steps to remedy the problem, whether they require more specialized programming or more attention in the salon. This close personal contact between salon and patron is impossible when you have to sell your contracts to a finance company.

Much of the problem of American Health Studios could have been avoided if they had been required to maintain a bank account in the California Cities in which they were located, and also if someone had looked into their financial structure. The financial statement that American Health was showing prospective landlords was completely unrealistic to anyone who understands this business and I would be very happy to explain that later.

CHAIRMAN BIDDICK: What is the name of your salon?

MRS. FEATHER: Eileen Feather Salons, Inc. We have salons in San Leandro, Berkeley, Oakland, Walnut Creek and San Jose.

Now, I would like to shortly give my opinion on some of the proposals. One is the long term contract. We sincerely feel that if a studio has a proven financial stability, we do not feel that they should be limited in the length of contract they can sell, if it does not extend beyond a normal lease basis.

CHAIRMAN BIDDICK: Well, what if the studio does not have a proven financial statement?

MRS. FEATHER: Then I do not believe they should be allowed.

CHAIRMAN BIDDICK: Well, in that case do you have any suggestions to state on that form of Legislation to determine whether or not they are financially feasible?

MRS. FEATHER: Yes, we do not believe in life time memberships, nor do we sell them. We offer charter memberships of 1, 2, 3 and 5 years to our patrons as maintenance programs after they have their full corrections program. These charter memberships are offered to them at a reduced rate and we find that it is a program that is much in demand by our patrons.

Now, Mr. Sobieski of the Corporations Commission, we feel, offered a wonderful solution in requiring that a permit be obtained by all health studios intending to serve or to offer long term contracts; this permit to be based on past business performance and / or proof of financial stability. ✓

This is our attitude toward a non-cancellable contract and the non-cancellable contracts are, in our business, an economic necessity.

Yesterday we were amused by the amount allowed by the American Health Studios to run their salons. The figure was between 2 and 3,000 dollars a salon. This figure would hardly cover salaries of the personnel. Any salon that seriously intends to give first rate supervision and facilities to its patrons is going to require a minimum of 5,000 dollars a month to operate and to maintain that service and that does not include the cost of opening a salon, which would be pre-rent on the lease or the equipment that is necessary to the salon.

This figure is constant whether you have 50 people or 500 people in the salon. If a woman has a contract, there is a 90 percent possibility of her paying it and in paying for it the chances of her using the facilities are much greater and remaining active in the salon and achieving her results, she becomes an advertisement for it. She tells her friends, they become patrons and they tell their friends. This situation is a necessity for economics and the economic health in our industry.

A non-cancellable contract makes a binding relationship between the patron and the salon. The mere fact that she is obligated to pay for her treatments makes her come in and take advantage of the service. This is how we have built our business and our reputation. It allows us to work out any difficulty with the patron. We feel that the non-cancellable contract creates the financial stability of a salon. We have spent a great deal of money keeping our patrons active and regular in a salon. We extend their treatments when they are ill or on vacation and provide them with a home program when they must be away.

The word non-cancellable on our contracts is very large and appears directly above the patron's signature.

We are in business to stay in business. Our aim is to give women the best health and appearance possible. We believe that we always offered full value for value received.

CHAIRMAN BIDDICK: Thank you very much, Mrs. Feather. I certainly think that probably speaks well of your operation. We haven't heard any complaints about it in the course of the testimony of law enforcement people. You made a very intelligent and well prepared presentation. We appreciate it.

I think that at this time we will excuse you now. I would like to call on the Arthur Murray people again but we are at 4:00 o'clock and we have people that have to catch planes. I would merely like to summarize briefly the results of the Hearing.

We have had two days of Hearings now. We covered in these Hearings, which have been related to both the health and dance studios, a number of citizens' complaints that have been relayed through District Attorneys and through Better Business

Bureaus, We have had general testimony by our own Committee Investigators.

Certainly there seems to be a certain element of abuse in both the health and the dance studios. Now, it does appear that there are many fine, legitimate operators. We just had a fine example of that. Certainly there seems to be quite a difference between the American Health Studios, which, it is quite apparent, were operated with the device of trying to acquire as many patrons and as much money as quickly as possible without any real intent to follow through, there certainly is a great deal of difference between that and the other health studios we have heard about, including the people who have just testified. They are from the East Bay Area, the Feathers.

Also, in the Arthur Murray situation, while we have had many examples of individual situations which I think have been allowed to continue in the past, I think we are gratified, this Committee is, that the Arthur Murray organization is taking steps within the organization to correct many of these things through their own democratic process.

Now, as I pointed out to the people here earlier and the Members of the Committee, the suggestions for Legislation which we have before us are not final proposals by any means. We have circularized to people we thought would be interested, to gain their comments. We also invite continued comments after these hearings. We will attempt to provide transcripts to all those who were interested enough to attend and to any others who may wish to have them in the event that they want to go over this and make some further comments.

At some future time, we will probably prepare a report. The report will not be my own ideas. It will be a report that the Committee can concur in. It may be that certain types of Legislation will be recommended for adoption for the next session of the Legislature. It may be that when we reach that point it will be suggested that we have further Hearings.

If that is the case, you folks will be notified so that you will have further opportunity to appear. I want to emphasize again that I think it is quite apparent, that we do have in mind the protection of the consuming public. That is our basic

desire, but we also recognize, as of equal importance, the fact that legitimate people trying to do business should not be discouraged but should be encouraged. We are trying to do that by seeing that these fringe practices are curbed in one way or another, maybe by some voluntary action so that the bonifide operators, those who are trying to do a good job may continue without this very unhealthy competition which is a real tremendous blow to them.

So again we wish to express our appreciation to all those who have appeared here, to all those who have cooperated with us. There are a few we wish had been here that weren't, but we will appreciate their cooperation. Those of you who know them, you might pass the word that if they want to get in touch with us or if they want to write us comments we will be very happy to have them.

I want to thank the Members of the Committee also for being with us throughout. We have had these 4 Members with us today throughout the entire Session and we had the other two Members yesterday who were unable to return, but we do appreciate your being with us. With this comment, then, the meeting will be adjourned.

(Whereupon the Chairman adjourned at 4:00 P.M.)